87.

SUPREME COURT OF THE UNITED STATES,

DECEMBER TERM, 1852—Nos. 8 and 10.

THE UNITED STATES, APPELLANTS,

vs.

THOMAS H. PATTERSON;

AND

THE UNITED STATES, APPELLANTS,

vs.

SAM'L DAVENPORT'S HEIRS AND REPRESENTATIVES.

Exhibit.

Supreme Court of the United States.—No. 156, of Dec. term, 1847.

THE UNITED STATES, appellants,
vs.
HENRY YATES AND ARCHIBALD MCINTYRE.

Appeal from the district court of the United States, for the district of Louisiana.

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UNITED STATES DISTRICT COURT,
For the district of Louisiana.

Be it remembered that, on the fourteenth day of March, in the year of our Lord one thousand eight hundred and forty-five, Henry Yates and Archibald McIntyre, by their solicitors, Harvey Baldwin and James Taylor, came into the district court of the United States, for the then eastern district of Louisiana, and filed the following petition, to wit:

To the honorable Theodore H. McCaleb, judge of the district court of the United States of America, in and for the district of Louisiana:

The petition of Henry Yates and Archibald McIntyre, residents of the city of Albany, in the State of New York, respectfully represents: That they are the owners, proprietors, and possessors of certain tracts or parcels of land situate, lying, and being in the parish of Sabine, in said State of Louisiana, and more particularly hereinafter described.

And your petitioners further represent, that they purchased said tracts of land of one Samuel Smith, late of the village of Little Falls, in the county of Herkimer, and State of New York aforesaid, now deceased, and Fanny, his wife, by three several deeds of conveyance; the first of which bears date the 20th day of October, 1832, and is recorded in the office of [the] parish judge of the parish of Natchitoches, and State of Louisiana aforesaid, in book "B" of deeds, folio 92, 93, 94, and 95; by which deed of conveyance an undivided one-half of the land, hereinafter more particularly described, and now claimed by your petitioners, was, for a valuable consideration, conveyed to your petitioners by said Smith and wife; reference being had to said deed will more fully appear.

And the second of which said deeds of conveyance, by said Smith and wife to your petitioners, bearing date the 17th day of March, 1835, and recorded in the office of parish judge of the parish of Natchitoches aforesaid, in book "H," fol. 463 to 466, on the 20th day of October, 1836; by which deed of conveyance last aforesaid, an undivided three-eighths of said two parcels of land, hereinafter more particularly described was, for a valuable consideration, conveyed by said Smith and wife to your petitioners; reference being thereunto had will more fully appear.

And by the third and last of which said deeds of conveyance, bearing date the 20th day June, 1837, and recorded in the office of parish judge of the parish of Natchitoches aforesaid, in book "L," fol. 26 to 31, the said Smith and wife, for a valuable consideration, conveyed to your petitioners their remaining interest in said two tracts of land, hereinafter more particularly described; reference being had to said deed last aforesaid will more fully appear. All which said three deeds will be produced on the trial of this cause, and given in evidence, as your honor may direct.

And your petitioners aver that, at the several times of recording said

deeds in said office of parish judge of the parish of Natchitoches aforesaid, said land in said deeds described, and thereby conveyed, was within the limits and boundaries of said parish of Natchitoches, and that said parish of Sabine, in which said lands now lie, has been, by a law of the State of Louisiana, subsequently enacted and duly organized.

And your petitioners further represent, that said Smith derived his title to said land, as aforesaid conveyed to your petitioners, and more particularly hereinafter described, in part by descent and inheritance from one Luther Smith, the elder and deceased brother of said Samuel Smith, and in part by purchase and sundry deeds of conveyance from the remaining heirs at law of said Luther Smith, deceased, and more particularly hereinafter mentioned; and to which deeds of conveyance your petitioners beg leave to refer, and bring into court on the trial of this cause, in such manner as your honor may direct.

And your petitioners further represent, that said Luther Smith, many years ago, and at an early day, emigrated to this region of country from the State of New York aforesaid, and entered into commercial business and co-partnership, at Nacogdoches, in Texas, then a province or department of Spain, with Samuel Davenport, Edward Murphy, and William Barr, under the name, style, and firm of William Barr & Co.; and that said co-partners, during the existence of said firm, became the joint and equal owners, in manner and form hereinafter mentioned, of two certain tracts of land situate, in said parish of Sabine, formerly Natchitoches, in said State of Louisiana aforesaid; one of which is known as the "La Nana, and the other as "Las Ormigas," tracts; and more particularly hereinafter described.

And your petitioners further represent, that said La Nana tract of land being within the late neutral territory lying east of the Sabine river, and west of the Arroya Honula, on the public road from Natchitoches to Gains' Ferry on said river, at a place called La Nana, and now within the parish of Sabine, and State of Louisiana aforesaid, and having for its centre a prairie, which joins the bayou of said La Nana, and extending two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie, and more particularly shown on the map of George S. Walmsley and William T. Walmsley, United States deputy surveyors, hereto annexed for reference, and to which, for greater certainty, your petitioners beg leave to refer, was granted to said Edward Murphy by Lieutenant Governor Don Jose Maria Guardiana, commandant of the Post of Nacogdoches, in Texas aforesaid, (Texas then being a province or department of Spain aforesaid, on the 4th day of August, 1798; and that said Edward Murphy conveyed the same to said co-partnership, then existing between himself, (said Murphy,) Davenport, Smith, and Barr, on the 3d November, 1798.

And your petitioners further represent, that said Las Ormigas tract of land, lying within said neutral territory, and situate on the east margin of the Sabine river, and west of the Arroyo Hondo, at a place called Las Ormigas, having such marks and boundaries as are represented in

a plat or survey made by William M. Luster, deputy surveyor of United States lands, and containing six leagues square, and more particularly described and shown on a map made by said George S. Walmsley and William T. Walmsley, United States deputy surveyors, hereto annexed for reference, and to which, for greater certainty, your petitioners beg leave to refer, was granted by Bernardo Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, in Texas aforesaid, Texas then being a province or department of Spain, to Jacinto Mora, on the 15th day of December, 1795, and that said Jacinto Mora transferred and conveyed the same to said William Barr & Co., being said firm composed of said William Barr, Samuel Davenport, Edward Murphy, and said Luther Smith, on the 22d day of July, 1805.

And your petitioners further represent, that at the several times of making said grants or concessions respectively, the district or country known as the neutral territory aforesaid, and within which said grants are respectively situate, belonged to the province or department of Texas aforesaid, then under the dominion of Spain aforesaid, and that the government thereof had good right, and lawful authority, to grant the same in manner and form hereinafter mentioned; which said grants, and the preliminary and other proceedings relating to the same, were in the words and figures following, to wit:

Mr. Lieutenant Governor: Don Edward Murphy, of the vicinity of Nacogdoches, appears before you by petition, and sayeth that, from three to four years last past, I have had, in the jurisdiction of Nacogdoches, now under your command, with the knowledge of your predecessors, the former commandant, at the place known by the name of Juan De Mora lake, kept cattle and other animals, for which, until this date, I have paid the duties of tenths, and finding said place scarce of cane range for the preservation and increase of said animals, I have recourse to you, praying for a grant for a tract of land at the place called "La Nana," situated on the east side of the river Sabine, about seven leagues from its margin, and on the road leading from this town to the post of Nacogdoches; said tract of land, from its centre, which is the prairie joining the bayou of the aforesaid "La Nana," and immediately on said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie; so that in this place of land I may have a sufficient range for my present and future stock.

(Signed) E. MURPHY.

Nacogdoches, February 22d, 1798.

Pass this petition to the procurador, that he may leave in possession of the land the interested person, as described.

(Signed) GUADIANA.

July 1st, 1798.

The 1st of August, 1798, in compliance with the foregoing decree, I, Don Jose Cayetano de Zepeda, syndic and procurador of this jurisdiction of our Lady of the Pillar of Nacogdoches, accompanied by my

assisting witnesses, Juan Jose Medina and Jose Domingues, went to the place called "La Nana," in order to establish in said place of La Nana Don Edward Murphy, who is present, and give him possession, in pursuance of the preceding order; and being at said place, after having inquired if there were adjacent neighbors, and being well assured the nearest was Mr. Charboneaux, distant about eight leagues from said place of La Nana, and finding no impediment, put Don Edward Murphy in possession of the vacant land prayed for in his aforesaid petition, with the extent and boundaries therein expressed; visited the limits and territory with the before named witnesses and said Edward Murphy; the two leagues, by the said road of St. Antonio de Bexar westward, reaching to the Chupederas, and other two leagues of land towards the east, which reaches by the said road to the bayou Tassan, with two leagues to the north, and other two leagues to the south; and taking him, the said Edward Murphy, by the hand, walked with him a number of paces from north to south and the same from east to west, and letting go his hand, he walked about at pleasure on the said territory of La Nana, pulling up weeds, made holes in the ground, planted posts, cut down bushes, took up clods of earth and threw them on the ground, and did many other things in token of the possession in which I had put him, in the name of his Majesty, of said land, with the boundaries and extension as prayed for; and, in demonstration of the right which he already holds in said land, as the only proprietor, by virtue of this act of possession, and for further evidence of the right of sovereignty, which he has forever acquired over said land of eight leagues, two towards each of the cardinal points, in the manner, place, and boundaries expressed in his aforesaid petition, with the servitudes, uses, customs, and privileges which he, the said Murphy, has, I gave the whole mentioned territory of "La Nana," which includes a square of eight leagues, the name of "San Pedro" of the bayou of "La Nana;" and the said Edward Murphy, being and remaining in entire and peaceable possession, in conformity to law and right, of all the aforesaid land, as a proof and evidence of which I have signed this act of possession, with the aforesaid witnesses, at the place of Saint Peter, of the bayou of "La Nana," the same day, month, and year.

(Signed) JOSE CAYETANO DE ZEPEDA.

Assistant witnesses—

(Signed) JUAN JOSE MEDINA,

(Signed) JOSE DOMINGUES.

At the post of Nacogdoches, the 4th day of the month of August, 1798, I, Don Jose Maria Guadiana, 2d cornet of the company of Montclova, and military and civil commandant of said post, have ordered, that in virtue of the possession of land given to Don Edward Murphy as aforesaid, without any opposition, the original document be placed in the protocol of said post, to serve as evidence of the same; and that there be given to the interested person a certified copy as a title for the property.

In testimony of which I have authorized this act, which I have signed with two assisting witnesses, with whom I have acted for want of a public notary, and on this common paper, for want of stamped; to all of which I give faith.

(Signed) JOSE MARIA GUADIANA,
(Signed) JOSE LOUIS DE LA BEGAR,
(Signed) PEDRO LARA.

NACOGDOCHES, *November* 14, 1795.

Mr. Lieutenant Governor: Jaciento Mora, inhabitant of this village of our Lady of the Pillar of Nacogdoches, with due respect appears by petition before you, and says, that, on the east side of the river Sabine, at the place called "Las Ormigas," distant from the aforesaid village about twenty-five leagues, I have my stock of horses, and where it is my intention to establish a stock-farm for the raising of mules, horses, horned cattle, sheep, and hogs, and likewise cultivate the soil; in virtue of which I pray you will be pleased to grant me, for that purpose, a title of property for myself, my heirs, &c., six leagues square of land at the above mentioned place of "Las Ormigas," the principal front or western boundary to extend north and south six leagues, so that the centre of the said line will be opposite the Indian crossing place on said river Sabine; the north line to begin at the northern extremity of the said front line, on the east bank of said river, and extending six leagues east, forming with the front line a rectangle; the south line to commence at the southern extremity of the aforesaid front line, and extend six leagues east, forming, also, with the other, a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with the said river until it joins the extremity of the south line; so that the prairies and plains of the above Ormigas will be included in the square of the four fronts of six leagues in length, each formed by the expressed four lines. In consequence, I pray you will have the goodness to grant me the aforesaid six leagues square of land at the said Ormigas, and in the manner prayed for, it being vacant, and no inhabitant near that such a grant can prejudice. And your petitioner, &c.

(Signed) JACINTO MORA.

NACOGDOCHES, *November* 14th, 1795.

The syndic procuror of this jurisdiction, Don Jose Calletano de Zepeda, will establish the petitioner in the aforesaid place, and in the manner asked for, if vacant, and not prejudicial to any inhabitant proprietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation, for the more effectual confirmation of the title of property.

(Signed) BERNARDO FERNANDEZ.

On the second day of December, 1795, I, Don Jose Calletano de Zepeda, syndic procuror of this district of our Lady of the Pillar of Nacogdoches, in conformity to the foregoing decree, accompanied by the assisting witnesses, Don Jose de la Bega and Juliano Grande, went

to the place called "Las Ormigas," situated about twenty-five leagues from said town of Nacogdoches, and on the east side of the Sabine river, in order to establish the said Jacinto Mora, then present, and give him possession, in conformity to the foregoing order. In compliance with which, being on said premises, after having inquired if there were any inhabitants near, in order to cite them to be present, and being assured that the nearest lived at least ten or twelve leagues off Las Ormigas, and that their possessions did not reach within three or four leagues of the boundaries pointed out by Jacinto Mora in his aforesaid petition, for which reason no injury could be sustained by the nearest neighbor from putting the said Jacinto Mora in possession of the vacant land he solicits, with all the extent and limits, I visited the boundaries and territory they embraced, with the assisting witnesses and the said Jacinto Mora; and, taking him by the right hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked at pleasure on the said territory of "Las Ormigas," pulled up weeds, made holes in the ground, planted posts, cut bushes, took up clods of earth and threw them on the ground, and did many other acts and things in proof of the possession I had given him, in the name of his Majesty, of the said land, with its boundaries and extension, as prayed for by him; and in further demonstration of the rights and sovereignty he holds in it, as the only proprietor, by virtue of this act of possession, and for the more abundant proof of the property which he has acquired in said land of six leagues square, in the manner, place, and boundaries expressed in his petition, with all the uses, privileges, and appurtenances thereunto belonging, and which he holds in said territory of "Las Ormigas," forming a square of six leagues each front in length, I have named it Santa Maria Adelaida, that said tract of land may in perpetuity be called Santa Maria Adelaida de Las Ormigas. And the said Jacinto Mora, being and remaining in entire and peaceable possession of the aforesaid land, according to law and right, I have, in testimony of which, signed this act of possession, with the aforesaid assisting witnesses, at this place of Santa Maria Adelaida, the day, month, and year before mentioned.

(Signed) JOSE CAYETANO DE ZEPEDA,
(Signed) JOSE LOUIS DE LA VEGA,
(Signed) JULIANO GRANDE.

Don Bernardo Fernandez, lieutenant of cavalry and lieutenant governor of the village of our Lady of the Pillar of Nacogdoches and its jurisdiction, confirms this title, in form and possession, in the name of his Majesty, (whom may God preserve,) to Jacinto Mora, for himself, his children, his heirs, and others representing his rights, in perpetuity, it appearing that, from the foregoing act of possession given by the syndic of this jurisdiction, *that* said tract of land was vacant, and cannot prejudice his neighbors. Given in the aforesaid village, the 15th day of December, 1795.

(Signed) BERNARDO FERNANDEZ.

This copy is in conformity to and with the original record in the archives under my care, to which I refer, and from which I, Don Dionisio Valle, lieutenant of cavalry and military and civil commandante of this village and jurisdiction of Nacogdoches, had it copied, corrected, and compared. It is true and genuine. And at which act were present William Barr, Louis Roliquet, and Vincent del Rio. In testimony of which, I, the aforesaid lieutenant of cavalry, have signed it, with two assisting witnesses, and with whom I proceeded, for want of a public notary, this twenty-seventh day of June, 1805; to all of which I give faith. (Signed) DIONISIO VALLE,
(Signed) JOSE PINEDA,
(Signed) MANUEL BUSTAMENTE,
Assisting witnesses.

And your petitioners further represent, that said grants, letters of petition, orders, delivery of service, certificates, reports, acts, and preliminary proceedings respectively, and relating to said respective grants of said respective tracts of land, were in all things in conformity to the laws, usages, and customs of Spain, as exercised in said province or department of Texas, at the time when said grants were respectively made.

And your petitioners further represent, that said two tracts of land were duly surveyed by a legal, competent, and duly authorized surveyor of the department of Texas aforesaid, under and by virtue of said grants or concessions respectively, but at what particular date your petitioners do not know, and cannot therefore state.

To all which petitions, orders, certificates, reports, acts, grants, concessions, and all preliminary and other proceedings relating to said grants, and to all surveys under the same, your petitioners ask leave to refer to, prove, and introduce on the trial of this cause, as your honor may direct.

And your petitioners aver, that immediate possession was taken of said premises respectively under each of said grants, and has been so continued by said grantees respectively, and by their respective legal representatives, by the keeping of stock and the cultivation of said premises respectively, from the respective dates of said grants to the present time; and that so much of said premises as are claimed by your petitioners, and hereinafter more particularly described, except as hereinafter excepted, and now held are possessed by your petitioners, as the legal representatives of the original grantees in said grants or concessions named.

And your petitioners further represent, that on or about the 9th day of October, 1806, said firm of William Barr & Co., consisting of said William Barr, Samuel Davenport, Edward Murphy, and Luther Smith, put an end to, and dissolved their said co-partnership, and divided all their co-partnership property and concerns, except said La Nana and Ormigas tracts of land; and that articles of separation or dissolution were then, to wit, on the 9th day of October, 1806, aforesaid, at

Natchitoches aforesaid, entered into and by them respectively signed, sealed, and delivered. By one of which articles it was agreed, as follows: "That the tracts of land which belong to said concern, and known by the names of the La Nana tract, containing four leagues square, and the Ormigas tract, of six leagues square, *is* not included in the separation of the property belonging to said partnership as already specified, and continues to remain as belonging equally to said partners, their heirs and assigns, to be hereafter disposed of as they may agree upon, &c.;" which said articles of separation or dissolution, still remaining of record in the office of [the] parish judge of the parish of Natchitoches aforesaid, your petitioners beg leave to refer unto, and introduce on the trial of this cause, as your honor may direct.

Your petitioners further represent, that all the members of said firm, to wit, said William Barr, Samuel Davenport, Edward Murphy, and Luther Smith, are now, and for a long time past have been, deceased, but at what particular time they, or either of them, died, your petitioners are not advised, and cannot therefore state.

Your petitioners further represent, that said Luther Smith, in whose share in said La Lana and Ormigas tracts of land your petitioners are interested, and are now the sole owners thereof, and to whose rights therein your petitioners have succeeded by purchase as aforesaid from said Samuel Smith, died, in said State of Louisiana many years ago, intestate and without issue, and that his interest in said lands descended to his next of kin, being a mother, brother, and a sister, in the State of New York aforesaid, *aforesaid*, and whose names are hereinafter particularly mentioned.

And your petitioners further represent, that the grants or concessions, and the preliminary and other proceedings relating to the same, and the titles of said Davenport, Barr, Murphy, and Smith, to said lands, were some time previous to the year 1826, and as your petitioners believe on or about the first day of November, 1824, submitted by said Davenport, Barr, Murphy, and Smith, or their survivors or legal representatives, to a board of commissioners, created as established by an act of Congress of the United States of America, to inquire into and report as to certain grants and concessions of land, and consisting of the register and receiver of the Natchitoches district, in the State of Louisiana aforesaid; and that said commissioners, after a careful examination of said titles, and after hearing the proofs and allegations of the parties interested in said premises, and some time in the years 1824, 1825, or 1826, pursuant to an act of Congress of the United States aforesaid, reported to the commissioners of the General Land Office, or to the proper authority at Washington, in the District of Columbia, the result of their examination, and their opinion thereon as to the titles of each of said La Nana and Ormigas tracts of land; and that as to said La Nana tract, said commissioners, in their said report, "classed it with the first class of claims, and recommended it for confirmnation;" and as to said Ormigas tract, said commissioners reported that they (said commissioners) "have no hesitation in saying, that they (said

commissioners) are of the opinion that said claim ought to be confirmed, and have in the abstract classed it with the first class of claims;" which reports are hereto annexed for reference, and herewith filed, and marked "B."

And your pititioners further represent, that said titles to both and each said La Nana and Ormigas tracts of land were at a subsequent period, and as your petitioners believe on or about the day of 1834 or 1835, again submitted to another or new board of commissioners, created and established by another act of Congress aforesaid, for inquiring into certain Spanish and other grants and concessions of land in the western and northwestern districts of the State of Louisiana aforesaid, as by the acts of Congress creating said boards will more fully appear; and that said board of commissioners, after an examination of said titles, and after hearing the proofs and allegations of the parties interested therein, and some time in the month of January, 1836, reported to the commissioners of the General Land Office, at Washington aforesaid, or to the proper authority in said city, the result of their examinations, and their opinions thereon as to the titles to each of said La Nana and Ormigas tracts of land; which reports are in the words and figures following, to wit: First, as to said La Nana tract said commissioners say, that "being of opinion this claim ought to be confirmed, we (said commissioners) have classed it with claims of the first class."

And as to said Ormigas tract, said commissioners say: "This claim is reported by the late board of commissioners, being 49 of the Natchitoches claims. By reference to that report, a great body of further testimony will be found sustaining the claimants' pretensions. We have no hesitation in saying, we are of the opinion this claim ought to be confirmed, and have in the abstract classed it with the first class of claims."

Which reports, with the proceedings thereon, are hereto annexed for reference, and herewith filed, marked "C."

To all which reports, and to the testimony taken by said boards of commissioners, or either of them, and to any other testimony taken by any other board of commissioners, or by any other tribunal established by any act or acts of Congress aforesaid, and which relate to said grants or tracts of land, your petitioners beg leave to refer and introduce upon the trial of this cause, as your honor may direct.

And your petitioners further represent, that on or about the 26th day of April, 1833, a judicial partition of said two tracts of land was made between the heirs and legal representatives of said Samuel Davenport, William Barr, Edward Murphy, and Luther Smith, in the probate court of the parish of Natchitoches and State of Louisiana aforesaid, in which parish said premises were then situate, by which said two tracts of land were equally divided into four equal parts, having reference to the value thereof; each set of heirs and legal representatives of the deceased Davenport, Barr, Murphy, and Smith, taking one-fourth part of each of said tracts of land according to the estimated

value thereof. Since which period, to wit, the 26th day of April, 1833, said two tracts of land have been and are now held in severalty, pursuant to said partition still remaining of record in said probate court, and to the marks or diagrams hereto annexed exhibiting the same, and the separate shares of each, and particularly the share of your petitioner in each of said grants, and being the interest of said Luther Smith, deceased, then represented by Samuel Smith, the grantor of your petitioners, and being number two of each tract of land, as shown on said marks or diagrams, your petitioners beg leave to refer and give in evidence on the trial of this cause, as your honor may direct.

Your petitioners further represent, that at the decease of said Luther Smith, intestate, and without issue as aforesaid, he left surviving him, and his only heirs at law, his mother Abigal Smith, a sister named Mary Smith, and two brothers, one named Nathan and the other Samuel Smith; and that said Abigal, Mary, and Nathan, subsequently, by sundry deeds of conveyance, so conveyed their respective interests in said two tracts of land as heirs at law of said Luther Smith, deceased, as to invest said Samuel Smith with all the share, right, and title of said Luther Smith, and of them as heirs at law of said Luther Smith, in each of said tracts of land; and that said Samuel Smith and Fanny, his wife, subsequently, and as herein before stated, conveyed the same to your petitioners.

And your petitioners further represent, that at the respective dates of said conveyances by said Abigal, Mary, and Nathan, the said Abigal, Nathan, and Mary, were sole and unmarried respectively. To all which deeds of conveyances, still remaining of record in the office of parish judge of the parish of Natchitoches and State of Louisiana aforesaid, your petitioners ask leave to refer and introduce in evidence on the trial of this cause, as your honor may direct.

And your petitioners further represent, that the interests so conveyed as aforesaid by said Samuel Smith to your petitioners in the La Nana tract, amount to - - - - $23,114\frac{64}{100}$ acres,
and in the Las Ormigas tract - - - 49,635 acres,

Making in all - - - $72,749\frac{64}{100}$ acres,

of land; all of which said land your petitioners aver lies within the jurisdiction of this court.

And your petitioners further represent, that after the purchase and conveyance to them of said Luther Smith's interest in said two tracts of land from said Samuel Smith as aforesaid, and on or about the 22d day of February, 1841, your petitioners applied to the Hon. H. T. Williams, then being surveyor general of the United States for the State of Louisiana, for his order or direction that said two tracts of land should be surveyed so as to separate them on the plats and maps of the United States from the public domain, and thereby prevent a sale of same, or any part thereof, by the United States.

Whereupon said surveyor general issued his direction or order, addressed to Geo. S. & Wm. T. Walmsley, esqrs., deputy surveyors of

the United States, residing at Natchitoches aforesaid, ordering and directing said surveys to be made, which said order or direction is in the words and figures following, to wit:

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 22d February, 1841.

SIR: You are hereby authorized and required to survey, measure, and mark the following claims, to wit:

The claims reported by the register and receiver of the southwestern district, in their report dated November 1st, 1824, under No. 180, in favor of Samuel Davenport, heirs and representatives of Ed. Murphy, deceased, heirs and representatives of Luther Smith, deceased, and heirs and representatives of W. Barr, deceased, claiming by virtue of a grant approved and signed by Don Jose Maria Guardiana, commandant of the post of Natchitoches, on the 4th August, 1798, in favor of Ed. Murphy, for four leagues square on the public road from Natchitoches to Gains' ferry, at a place called La Nana, "having for its centre the prairie which joins the bayou of said La Nana, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie;" and under No. 181 of same report, in favor of the same claimants, by virtue of a concession signed by Bernada Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th December, 1795, in favor of Jacinto Mora, containing six square leagues, equal 207.3060 acres.

You will be careful to take connexions of all the lines of the public surveys, so that the said claims may be represented on the township maps, and that the areas of the adjacent tracts may be computed; and return separate plats and certificates of survey, (in duplicate,) and also the original field notes, to this office, that such action may be had thereon as may be authorized by law, and the instructions relative to claims reported, but not yet finally acted on by Congress.

As this land has already been surveyed for the United States in square sections, you will not be entitled to compensation from this office, it being intended that the expense thereof should be paid by the claimants. I am, sir, your obedient servant,

Signed, H. T. WILLIAMS,
Surveyor General, La.

To GEO. S. & WM. T. WALMSLEY,
Deputy surveyors.

Received, Natchitoches, March 15th, 1841, an order, of which the above is a copy, for the purpose of making the survey therein stated.

Signed, GEO. S. & WM. T. WALMSLEY.

Which order still remains of record in the office of said surveyor general.

And your petitioners further represent, that said George S. & William T. Walmsley, United States deputy surveyors, in said order mentioned, surveyed said two tracts of lands pursuant to said order, and in all things in conformity with the directions therein contained, and re-

turned the maps and field notes thereof to the office of said surveyor general, who, after causing same to be placed on the United States survey and map of lands in the northwestern district of Louisiana aforesaid, reported and transmitted same to the General Land Office in the city of Washington; and that the Commissioners of said General Land Office reported same to the Secretary of the Treasury, who, on or about the 28th December, 1843, transmitted the same to Congress. To which order, map, field notes, survey, and reports, still remaining of record, your petitioners beg leave to refer and introduce upon the trial of this cause, as your honor may direct.

And your petitioners further represent, that the land officers of the United States of the northwestern land district of Louisiana, at Natchitoches, have, at sundry times, sold sundry portions of said land, and that sundry grants thereof have been made by the United States, or by authority thereof, to sundry persons resident of said district, as shown on the annexed certificates, for reference of the register of public lands of said district, marked "E," and to which your petitioners, for greater certainty, beg leave to refer and bring into court, and introduce on the trial of this cause, in such manner as your honor may direct.

And your petitioners further represent, that no indemnity has been made or given by the United States to your petitioners, or to any other person or persons, for or by reason of such sales or grants of your petitioners' land as aforesaid, by return of the purchase money or otherwise.

And your petitioners further represent, that it is not their wish or intention to contest said sales and grants, so as aforesaid made by the United States, or by or under the authority thereof, of your petitioners' land. But your petitioners aver, that for all the land so sold and granted aforesaid, and included within the limits of their claim aforesaid, they have, under the provisions of the act of Congress hereinafter mentioned, and under which this petition is filed, a right to locate an equal quantity elsewhere in the State of Louisiana aforesaid.

Your petitioners further represent, that they have at all times, to the extent of their power, given the Government of the United States notice of their claim to said lands, and have resisted the sale thereof by the United States. And that such notices, given at sundry times, and as often as your petitioners were advised that said Government designed to sell lands in said district in which your petitioners' said lands are situate, have drawn from the General Land Office, in the city of Washington, several letters and admissions, copies of which are hereto annexed for reference, marked "F," "G," and "H," respectively, and to which your petitioners beg leave to refer and introduce in evidence on the trial of this cause, as your honor may direct.

Your petitioners further represent, that they, and those under whom they claim, have made various efforts to have their claim and title to said lands inquired into, recognised, and confirmed by the proper authorities of the United States, but have hitherto been remediless in the premises, unless said two reports, by said two boards of commissioners herein before stated, and hereto annexed as aforesaid, amount to such

recognition and confirmation, until the passage of the act of Congress of the United States of the 17th June, 1844, entitled "an act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the State of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers."

Your petitioners further represent that, whether your honor shall deem the title to the territory lying east of the Sabine river, and west of the Arroyo Hondo, and within which your petitioners' land is situated, to have been acquired by the United States under the treaty between the United States and France, ratified and concluded on the 21st day of October, 1803, or that of the United States and Spain, ratified and concluded on the 22d day of February, 1819, or both of them. Your petitioners aver that, in either or any event, the original grants so made as aforesaid are perfect, and invested the original grantees, and their legal representatives, with an absolute and indefeasible estate of inheritance, the free and full enjoyment of which was guarantied by said treaties; and that by mesne and valid conveyances such parts thereof as are claimed by your petitioners have been transferred, by a regular deduction of title, to your petitioners, who have paid in cash a vast deal more than the same is now worth, and more than they could hope to realize on the sale of same on an extended credit. And that your petitioners have been largely damnified in consequence of the withholding a direct act of recognition and confirmation by the United States of your petitioners' claim and title, in direct and open violation of the solemn guarantees and stipulations contained in both of said treaties, and to the fair and honest fulfilment of which, on the part of the Government of the United States, your petitioners relied at the time of purchasing said lands, and which in a great degree formed an inducement thereto.

And your petitioners aver, that while it is true that the act of Congress, before referred to, and under which this suit is brought, may furnish the means of recognition and confirmation of your petitioners' title by the United States, yet even that has been long delayed, and is defective in its form, doubtful in some of its provisions, and unjust in others, and that proceedings under it are attended with great delay, trouble, and expense, which claimants to small grants could not afford to pay, and to which no bona fide grantee should be subjected; and your petitioners are only induced to take their remedy under said act, because no other direct and positive provision by the Government of the United States has been made; and in the doing of which your petitioners here, as elsewhere, solemnly protest against all such provisions contained in said act as requires claimants, deriving their titles under either Spanish, French, or British grants, to institute their suits within two years, and to prosecute them to final judgment within five years, or to be barred, and forever thereafter forfeit their claim; and also to all such provisions as subject claimants to the payment of costs, should such be the construction given to said act.

Your petitioners also aver, that between the General and State Gov-

ernments individual rights are trampled upon and sacrificed. The lands owned by your petitioners are annually and severally taxed by the local authorities, while the General Government withholds its assent to confirmation of the title of your petitioners, or reluctantly yields it through a long and tedious course of expensive litigation.

Inasmuch, however, as no other remedy is afforded, and as your petitioners cannot make their property in said lands available without some act of recognition and confirmation by the Government of the United States, your petitioners respectfully ask leave to file this their petition against the United States, under said act, subject nevertheless to the aforesaid protest, and in full reliance that said Government, through its judicial tribunals or otherwise, will ultimately do justice to the claims of your petitioners.

In filing their petition, your petitioners further ask leave to reserve the right of amending same from time to time, as occasion may arise, and that a copy of said petition, together with a citation, be served on Bailey Peyton, esquire, the district attorney of the United States for the district of Louisiana, and such other parties as may be hereinafter named, requiring him and them to appear in this court at a day certain, to show cause, if any he or they may have, why the claim of your petitioners should not be inquired into, recognised, and confirmed by the United States. And they further ask their claim, right, and title to said land be decided, declared, and adjudged good and valid against the United States, as set forth and shown on said survey and maps of George S. and William T. Walmsley, hereto annexed; and that they be permitted to locate elsewhere, according to law, a quantity of land equal to that sold or granted by the United States within the limits of the aforesaid grants, and for costs in this behalf sustained.

Your petitioners also ask such other and general relief in the premises, as may seem just, reasonable, and equitable by your honor to grant.

All which is respectfully submitted.

(Sig'd) JAMES TAYLOR,
Att'y for petitioners of Natchitoches.

(Sig'd) H. BALDWIN,
Of counsel.

Report marked "B," referred to and filed with said petition.

Copies of two reports, made by the register and receiver of the Natchitoches district, in the State of Louisiana, on the claim of Samuel Davenport and others, to two tracts of land granted by the Spanish government, situate between the Red river and the Sabine.

The first was made in January, 1826, and is as follows: (See Executive documents, 19th Congress, Vol. 4, Doc. No. 50, claims marked 180 and 181.)

180. Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, all of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, deceased, of the State of Pennsylvania, filed their notice claiming a tract of land, being within the late

neutral territory, lying east of the Sabine river, on the public road from Natchitoches to Gaines' ferry, on said river, at a place called "La Nana," having for its centre the prairie which joins the bayou of said "La Nana," to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie, claimed by virtue of a grant approved and signed by Don Jose Maria Guadiana, commandant of the post of Nacogdoches, the 4th of August, 1798, in favor of said Edward Murphy, who, on the 3d of November, 1798, conveyed the same to the commercial partnership then existing between himself, (said Murphy,) Davenport, Smith, and Barr. The claim is supported by authenticated documents, of which the following are translations:

Mr. Lieutenant Governor: Don Edward Murphy, of the vicinity of Nacogdoches, appears before you by petition, and sayeth, that from three to four years last past, I have had, in the jurisdiction of Nacogdoches, now under your command, with the knowledge of your predecessors, the former commandant at a place known by the name of Juan de Mora lake, kept cattle and other animals, for which until this date I have paid the duties of tenths; and finding said place scarce of cane range for the preservation and increase of said animals, I have recourse to you, praying for a grant for a tract of land at the place called "La Nana," situated on the east side of the river Sabine, about seven leagues from its margin, and on the road leading from this town to the post of Nacogdoches; said tract of land from its centre, which is the prairie joining the bayou of the aforesaid "La Nana," and immediately on said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie; so that in this space of land I may have a sufficient range for my present and future stock.

(Signed) E. MURPHY.

NACOGDOCHES, *February 22d*, 1798.

Pass this petition to the procurador, that he may leave in possession of the land the interested person, as described.

(Signed) GUADIANA.

July 1, 1798.

The 1st of August, 1798, in compliance with the foregoing decree, I, Don Jose Cayetano de Zepeda, syndic and procurador of this jurisdiction of our Lady of the Pillar of Nacogdoches, accompanied by my assisting witnesses, Juan Jose Medina and Jose Domingues, went to the place called "La Nana," in order to establish in said place of "La Nana" Don Edward Murphy, who is present, and give him possession, in pursuance of the preceding order; and being at said place, after having inquired if there were adjacent neighbors, and being well assured the nearest, Mr. Charboneaux, distant about eight leagues from said place of La Nana, and, finding no impediment, put Don Edward Murphy in possession of the vacant land prayed for in his aforesaid petition, with the extent and boundaries therein expressed; visited the

limits and territory with the before named witnesses and said Edward Murphy; the two leagues by the said road of St. Antonio de Bexar, westward, reaching to the Chupederas, and other two leagues of land towards the east, which reaches by the said road to the bayou Tassan, with two leagues to the north, and other two leagues to the south; and taking him, the said Edward Murphy, by the hand, walked with him a number of paces from north to south, and the same from east to west, and, letting go his hand, he walked about at pleasure on the said territory of La Nana, pulling up weeds, made holes in the ground, planted posts, cut down bushes, took up clods of earth and threw them on the ground, and did many other things in token of the possession in which I had put him, in the name of his Majesty, of said lands, with the boundaries and extension as prayed for; and, in demonstration of the right which he already holds in said land, as the only proprietor, by virtue of this act of possession, and for further evidence of the right of sovereignty which he has forever acquired over said land of eight leagues, two towards each of the cardinal points, in the manner, place, and boundaries expressed in his aforesaid petition, with the servitudes, uses, customs and privileges, which he, the said Murphy, has, I gave the whole mentioned territory of "La Nana," which includes a square of eight leagues, the name of "San Pedro of the bayou of La Nana;" and the said Edward Murphy being and remaining in entire and peaceable possession, in conformity to law and right, of all the aforesaid land, as a proof and evidence of which I have signed this act of possession, with the aforesaid witnesses, at the place of Saint Peter of the bayou of "La Nana," the same day, month, and year.

(Signed) JOSE CAYETANO DE ZEPEDA.

Assisting witnesses:

(Signed) JUAN JOSE MEDINA,

" JOSE DOMINGUES.

At the post of Nacogdoches, the 4th day of the month of August, 1798, I, Don Jose Maria Guadiana, 2d cornet of the company of Montclova, and military and civil commandant of said post, have ordered that, in virtue of the possession of land given to Don Edward Murphy as aforesaid, without any opposition, the original document be placed in the protocol of said post, to serve as evidence of the same; and that there be given to the interested person a certified copy as a title for the property. In testimony of which I have authorized this act, which I have signed, with two assisting witnesses, with whom I have acted, for want of a public notary, and on this common paper, for want of stamped. To all of which I give faith.

(Signed) JOSE MARIA GUADIANA,

" JOSE LOUIS DE LA BEGAR,

" PEDRO LARA.

This claim was entered and filed with the former board of commissioners, where it was supported by testimony that does not appear here; the whole, however, was reported by that board, with claim to land in

the county of Natchitoches, under No. 46; and to that report we beg to refer.

Being of opinion this claim ought to be confirmed, we have classed it with claims of the "first class."

181. Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, of the State of Pennsylvania, filed their notice claiming a tract of land lying within the late neutral territory, situated on the east margin of the Sabine river, at a place called "Las Ormigas," having such marks and boundaries as is represented in a plat of survey made by William M. Lester, deputy surveyor of the United States lands, and containing six square leagues, equal to 207,360 acres, claimed by virtue of a concession signed by Bernardo Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jaciento Mora; which land, said Mora, by act of sale dated 23d of July, 1805, transferred to William Barr & Co., a firm composed of said William Barr, now deceased, Samuel Davenport, Edward Murphy, now deceased, and Luther Smith, now deceased.

The claim is supported by an authentic copy of the original acts, of which the following are translations:

Mr. Lieutenant Governor: Jaciento Mora, inhabitant of this village of our Lady of the Pillar of Nacogdoches, with due respect, appears by petition before you, and says, that on the east side of the river Sabine, at the place called "Las Ormigas," distant from the aforesaid village about twenty-five leagues, I have my stock of horses, and where it is my intention to establish a stock farm for the raising of mules, horses, horned cattle, sheep, and hogs, and likewise cultivate the soil; in virtue of which I pray you will be pleased to grant me, for that purpose, a title of property for myself, my heirs, &c., six leagues square of land at the above mentioned place of "Las Ormigas," the principal front, or western boundary, to extend north and south six leagues, so that the centre of the said line will be opposite the Indian crossing place on said river Sabine; the north line to begin at the northern extremity of the said front line, on the east bank of said river, and extending six leagues east, forming with the front line a rectangle; the south line to commence at the southern extremity of the aforesaid front line, and extend six leagues east, forming also, with the other, a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with the said river until it joins the extremity of the south line, so that the prairies and plains of the above Ormigas will be included in the square of the four fronts of six leagues in length each, formed by the expressed four lines. In consequence, I pray you will have the goodness to grant me the aforesaid six leagues square of land, at the said Ormigas, and in the manner prayed for, it being vacant, and no inhabitant near that such a grant can prejudice. And your petitioner, &c.

(Sig'd) JACINTO MORA.

Nacogdoches, November 14, 1795.

NACOGDOCHES, *14th November*, 1795.

The syndic procuror of this jurisdiction, Don Jose Calletano de Zepeda, will establish the petitioner in the aforesaid place, and in the manner asked for, if vacant, and not prejudicial to any inhabitant proprietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation for the more effectual confirmation of the title of property.

Signed BERNARDO FERNANDEZ.

On the second day of December, 1795, I, Don Jose Calletano de Zepeda, syndic procuror of this district of our Lady of the Pillar of Nacogdoches, in conformity to the foregoing decree, accompanied by the assisting witnesses, Don Jose de la Bega and Juliano Grande, went to the place called "Las Ormigas," situated about twenty-five leagues from said town of Nacogdoches, and on the east side of the Sabine river, in order to establish the said Jacinto Mora, then present, and give him possession in conformity to the foregoing order. In compliance with which, being on said premises, after having inquired if there were any inhabitants near, in order to cite them to be present, and being assured that the nearest lived at least ten or twelve leagues off Las Ormigas, and that their possessions did not reach within three or four leagues of the boundaries pointed out by Jacinto Mora in his aforesaid petition, for which reason no injury could be sustained by the nearest neighbor from putting the said Jacinto Mora in possession of the vacant land he solicits, with all the extent and limits, I visited the boundaries and territory they embrace, with the assisting witnesses, and the said Jacinto Mora, and, taking him by the right hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked at pleasure on the said territory of "Las Ormigas," pulled up weeds, made holes in the ground, planted posts, cut bushes, took up clods of earth and threw them on the ground, and did many other acts and things in proof of the possession I had given him, in the name of his Majesty, of the said land, with its boundaries and extension as prayed for by him; and in further demonstration of the rights and sovereignty he holds in it as the only proprietor, by virtue of this act of possession, and for the more abundant proof of the property which he has acquired in said land of six leagues square, in the manner, place, and boundaries, expressed in his petition, with all the uses, privileges, and appurtenances thereunto belonging, and which he holds in said territory of "Las Ormigas," forming a square of six leagues each front in length, I have named it Santa Maria Adelaida, that said tract of land may, in perpetuity, be called Santa Maria Adelaida de Las Ormigas. And the said Jacinto Mora being and remaining in entire and peaceable possession of the aforesaid land according to law and right, I have, in testimony of which, signed this act of possession, with the aforesaid assisting witnesses, at this place of Santa Maria Adelaida, the day, month, and year before mentioned.

Signed JOSE CAYETANO DE ZEPEDA,
" JOSE LOUIS DE LA VEGA,
" JULIANO GRANDE.

Don Bernardo Fernandez, lieutenant of cavalry and lieutenant governor of the village of our Lady of the Pillar of Nacogdoches and its jurisdiction, confirms this title in form and possession, in the name of his Majesty (whom may God preserve) to Jacinto Mora, for himself, his children, his heirs, and others representing his rights, in perpetuity, it appearing that from the foregoing act of possession, given by the syndic of this jurisdiction, that said tract of land was vacant, and cannot prejudice his neighbors.

Given in the aforesaid village, the 15th day of December, 1795.

Signed, BERNARDO FERNANDEZ.

This copy is in conformity to and with the original record in the archives under my care, to which I refer, and from which I, Don Dionisio Valle, lieutenant of cavalry and military and civil commandant of this village and jurisdiction of Nacogdoches, had it copied, corrected, and compared. It is true and genuine, and at which act were present William Barr, Louis Roliquet, and Vincent del Rio.

In testimony of which, I, the aforesaid lieutenant of cavalry, have signed it with two assisting witnesses, and with whom I proceeded for want of a public notary, this 27th day of June, 1805, to all of which I give faith.

Signed, DIONISIO VALLE.

JOSE PENEDA,
MANUEL BUSTAMENTE.
Assisting Witnesses.

Next follows a sale from Jacinto Mora to William Barr & Co. of the land conceded to him, dated the 22d July, 1805, and passed in due form before the said lieutenant and commandant.

This claim is reported by the late board of commissioners, being No. 49 of the Natchitoches claims; by reference to that report, a great body of further testimony will be found sustaining the claimants' pretensions. We have no hesitation in saying, we are of opinion this claim ought to be confirmed, and have in the abstract classed it with the "first class" of claims.

Document marked C, annexed to said petition.

The second report was made to Congress in January, 1836, and is as follows: (See Document No. 49, claims marked 180 and 181.)

180. Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, all of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, deceased, of the State of Pennsylvania, filed their notice, claiming a tract of land, being within the late neutral territory lying east of Sabine river, on the public road from Natchitoches to Gaines' ferry, on said river, at a place called "La Nana," having for its centre the prairie which joins the bayou of said "La Nana," to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre

to be said prairie. Claimed by virtue of a grant, approved and signed by Don Jose Maria Guadiana, commandant of the post of Nacogdoches, the 4th of August, 1798, in favor of said Edward Murphy, who, on the 3d of November, 1798, conveyed the same to the commercial partnership then existing between himself, (said Murphy,) Davenport, Smith, and Barr.

The claim is supported by authenticated documents, of which the following are translations:

Mr. Lieutenant Governor: Don Edward Murphy, of the vicinity of Nacogdoches, appears before you by petition, and sayeth, that from three to four years last past I have had in the jurisdiction of Nacogdoches, now under your command, with the knowledge of your predecessors, the former commandant, at the place known by the name of Juan de Mora lake, kept cattle and other animals, for which, until this date, I have paid the duties of tenths, and finding said place scarce of cane range, for the preservation and increase of said animals, I have recourse to you, praying for a grant for a tract of land at a place called "La Nana," situated on the east side of the river Sabine, about seven leagues from its margin, and on the road leading from this town to the post of Natchitoches; said tract of land, from its centre, which is the prairie adjoining the bayou of the aforesaid "La Nana," and immediately on said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie; so that in this space of land I may have a sufficient range for my present and future stock.

Signed, E. MURPHY.

Nacogdoches, February 22, 1798.

Pass this petition to the procurador, that he may leave in possession of the land the interested person, as described.

Signed, GUADIANA.

July 1, 1798.

The 1st of August, 1798, in compliance with the foregoing decree, I, Don Jose Cayetano de Zepeda, syndic and procurador of this jurisdiction of our Lady of the Pillar of Nacogdoches, accompanied by my assisting witnesses, Juan Jose Medina and Jose Domingues, went to the place called "La Nana, in order to establish in said place of La Nana Don Edward Murphy, who is present, and give him possession, in pursuance of the preceding order; and being at said place, after having inquired if there were adjacent neighbors, and being well assured that the nearest was Mr. Charboneaux, distant about eight leagues from said place of La Nana, and finding no impediment, put Don Edward Murphy in possession of the vacant land prayed for in his aforesaid petition, with the extent and boundaries therein expressed; visited the limits and territory with the before named witnesses and said Edward Murphy. The two leagues by the said road of St. Antonia de Bexar westward, reaching to the Chupaderas, and other two leagues of land towards the east, which reaches by the said road to the bayou Tassan, with two

leagues to the north, and other two leagues to the south; and taking him, the said Edward Murphy, by the hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked about at pleasure on the said territory of La Nana, pulling up weeds, made holes in the ground, planted posts, cut down bushes, took up clods of earth and threw them on the ground, and did many other things in token of the possession in which I had put him, in the name of his Majesty, of said land, with the boundaries and extension as prayed for, and in demonstration of the right which he already holds in said land, as the only proprietor, by virtue of this act of possession; and for further evidence of the right of sovereignty which he has forever acquired over said land of eight leagues, two towards each of the cardinal points, in the manner, place, and boundaries expressed in his aforesaid petition, with the servitudes, uses, customs, and privileges, which he, the said Murphy, has, I gave the whole mentioned territory of "La Nana," which includes a square of eight leagues, the name of "San Pedro of the Bayou of La Nana;" and the said Edward Murphy being and remaining in entire and peaceable possession, in conformity to law and right, of all the aforesaid land, as a proof and evidence of which I have signed this act of possession, with the aforesaid witnesses, at the place of St. Peter of the Bayou of "La Nana," the same day, month, and year.

(Signed) JOSE CAYETANO DE ZEPEDA.

Assisting witnesses—

JUAN JOSE MEDINA,
JOSE DOMINGUES.

At the post of Nacogdoches, the 4th day of the month of August, 1798, I, Don Jose Maria Guadiana, 2nd cornet of the company of Montclova, and military and civil commandant of said post, have ordered that, in virtue of the possession of land given to Don Edward Murphy as aforesaid, without any opposition, the original document be placed in the protocol of said post, to serve as evidence of the same, and that there be given to the interested person a certified copy, as a title for the property.

In testimony of which I have authorized this act, which I have signed with two assisting witnesses, with whom I have acted for want of a public notary, and on this common paper for want of stamped. To all which I give faith.

(Signed) JOSE MARIA GUADIANA,
JOSE LOUIS DE LA BEGAR,
PEDRO LARA.

This claim was entered and filed with the former board of commissioners, where it was supported by testimony that does not appear here; the whole, however, was reported by that board, with claims to land in the county of Natchitoches, under No. 46; and to that report we beg to refer.

Being of opinion this claim ought to be confirmed, we have classed it with claims of the "first class."

181. Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, of the State of Pennsylvania, filed their notice, claiming a tract of land lying within the late neutral territory, situated on the east margin of the Sabine river, at a place called "Las Ormigas," having such marks and boundaries as is represented in a plat of survey made by William M. Lester, deputy surveyor of the United States lands, and containing six square leagues, equal to 207,360 acres, claimed by virtue of a concession signed by Bernardo Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th December, 1795, in favor of Jaciento Mora; which land, said Mora, by act of sale, dated 23d July, 1805, transferred to William Barr & Co., a firm composed of said William Barr, now deceased, Samuel Davenport, Edward Murphy, now deceased, and Luther Smith, now deceased.

The claim is supported by an authentic copy of the original acts, of which the following are translations:

Mr. Lieutenant Governor: Jaciento Mora, inhabitant of this village of our Lady of the Pillar of Nacogdoches, with due respect, appears by petition before you and says, that on the east side of the river Sabine, at a place called "Las Ormigas," distant from the aforesaid village about twenty-five leagues, I have my stock of horses, and where it is my intention to establish a stock farm, for the raising of mules, horses, horned cattle, sheep, and hogs, and likewise cultivate the soil. In virtue of which, I pray you will be pleased to grant me, for that purpose, a title of property for myself, my heirs, &c., six leagues square of land, at the above mentioned place of "Las Ormigas," the principal front or western boundary to extend north and south six leagues, so that the centre of the said line will be opposite the Indian crossing place on said river Sabine; the north line to begin at the northern extremity of the said front line, on the east bank of said river, and extending six leagues east, forming with the front line a rectangle; the south line to commence at the southern extremity of the aforesaid front line, and extend six leagues east, forming also, with the other, a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with the said river until it joins the extremity of the south line, so that the prairies and plains of the above Ormigas will be included in the square of the four fronts of six leagues in length each, formed by the expressed four lines. In consequence, I pray you will have the goodness to grant me the aforesaid six leagues square of land, at the said Ormigas, and in the manner prayed for, it being vacant, and no inhabitants near that such a grant can prejudice. And your petitioner, &c.

(Signed) JACINTO MORA.

Nacogdoches, November 14, 1795.

NACOGDOCHES, *November 14th*, 1795.

The syndic procurador of this jurisdiction, Don Jose Cayetano de Zepeda, will establish the petitioner in the aforesaid place, and in the

manner asked for, if vacant and not prejudicial to any inhabitant proprietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation, for the more effectual confirmation of the title of property.

(Signed) BERNARDO FERNANDEZ.

On the 2nd day of December, 1795, I, Don Jose Cayetano de Zepeda, syndic procuror of this district of our Lady of the Pillar of Nacogdoches, in conformity to the foregoing decree, accompanied by the assisting witnesses, Don Jose de la Vega and Juliano Grande, went to place called "Las Ormigas," situated about twenty-five leagues from said town of Natchitoches, and on the east side of the Sabine river, in order to establish the said Jacinta Mora, then present, and give him possession, in conformity with the foregoing order. In compliance with which, being on said premises, after having inquired if there were any inhabitants near, in order to cite them to be present, and being assured that the nearest lived at least ten or twelve leagues off Las Ormigas, and that their possession did not reach within three or four leagues of the boundaries pointed out by Jacinto Mora in his aforesaid petition, for which reason no injury could be sustained by the nearest neighbor from putting the said Jacinto Mora in possession of the vacant land he solicits, with all the extent and limits, I visited the boundaries and territory they embraced, with the assisting witnesses and the said Jacinto Mora, and taking him by the right hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked at pleasure on the said territory of "Las Ormigas," pulled up weeds, made holes in the ground, planted posts, cut bushes, took up clods of earth and threw them on the ground, and did many other acts and things in proof of the possession I had given him, in the name of his Majesty, of the said land, with its boundaries and extension, as prayed for by him; and, in further demonstration of the right and sovereignty he holds in it, as the only proprietor, by virtue of this act of possession, and for the more abundant proof of the property which he has acquired in said land of six leagues square, in the manner, place, and boundaries expressed in his petition, with all the uses, privileges, and appurtenances thereunto belonging, and which he holds in said territory of "Las Ormigas," forming a square of six leagues each front in length, I have named it Santa Maria Adelaida, that said tract of land may in perpetuity *may* be called Santa Maria Adelaida de las Ormigas. And the said Jacinto Mora, being and remaining in entire and peaceable possession of the aforesaid land, according to law and right, I have, in testimony of which, signed this act of possession, with the aforesaid assisting witnesses, at this place of Santa Maria Adelaida, the day, month, and year before mentioned.

(Signed) JOSE CAYETANO DE ZEPEDA,
JOSE LOUIS DE LA VEGA,
JULIANO GRANDE.

Don Bernardo Fernandez, lieutenant of cavalry, and lieutenant governor of the village of our Lady of the Pillar of Nacogdoches, and

its jurisdiction, confirms this title in form and possession, in the name of his Majesty, (whom may God preserve,) to Jacinto Mora, for himself, his children, his heirs, and others representing his rights, in perpetuity; it appearing, that from the foregoing act of possession, given by the syndic of this jurisdiction, that said tract of land was vacant, and cannot prejudice his neighbors. Given in the aforesaid village, the 15th day of December, 1795.

(Signed) BERNARDO FERNANDEZ.

This copy is in conformity to and with the original record, in the archives under my care, to which I refer, and from which I, Don Dionisio Valle, lieutenant of cavalry, and military and civil commandant of this village and jurisdiction of Nacogdoches, had it copied, corrected, and compared. It is true and genuine. And at which act were present William Barr, Louis Roliquet, and Vincent de Rio.

In testimony of which, I, the aforesaid lieutenant of cavalry, have signed it, with two assisting witnesses, and with whom I proceeded, for want of a public notary, this 27th day of June, 1805. To all of which I give faith. (Signed) DIONISIO VALLE,
JOSE PINEDA.
MANUEL BUSTAMENTE,
Assisting Witnesses.

Next follows a sale, from Jacinto Mora to William Barr & Co., of the land conceded to him, dated the 22d of July, 1805, and passed in due form before the said lieutenant and commandant.

This claim is reported by the late board of commissioners, being No. 49 of the Natchitoches claims; by reference to that report, a great body of further testimony will be found sustaining the claimants' pretensions. We have no hesitation in saying, we are of opinion this claim ought to be confirmed, and have, in the abstract, classed it with the "first class" of claims.

Henry Yates and Archibald McIntyre take the liberty of now adding, that the heirs and representatives of the grantees and owners of the two tracts mentioned in the preceding reports, made partition of the lands, under the direction of the court of probates of the parish of Natchitoches; which partition was confirmed the 21st April, 1833, and is there of record.

Soon thereafter Henry Yates and A. McIntyre, for a valuable consideration, purchased from the representatives of Luther Smith the allotment made to them in the partition of the quarter of said land as the right of Luther Smith; since which the parties have held their respective shares of said land in severalty.

Washington, May 12, 1838.

Copy of document marked F, annexed to petition.

GENERAL LAND OFFICE, *May* 11, 1836.

The REGISTER of the land office at Opelousas, Louisiana:

SIR: Henry Yates, esq., of the city of New York, having informed

this office, through the Hon. Mr. Fuller, that he is the owner of part of the lands claimed by Samuel Davenport and others, entered as claims numbers 180 and 181, in the report of the register and receiver upon claims between the Rio Hondo and Sabine, and that he has been advised that sales of portions of the lands within those claims have been made at your office; I have not been enabled, in consequence of the lines of those claims not being represented upon the plats in this office, to ascertain what sales, if any, have been made interfering with those claims; and have, therefore, to request that you forthwith advise this office of the positions of those claims, with reference to the lines of the public surveys, so far as they can be ascertained from the papers and records in your office, and such other unquestionable evidence upon those points as may be accessible to you; and furnish me with a list of all sales which may have been made within such lines.

These claims having been duly filed, for the purpose of examination, with the land officers, are not subject to entry; and, if you have not already done it, you are directed to mark them, as accurately as possible, upon the maps, to prevent any interfering sales hereafter.

Very respectfully, &c.,

(Signed) ETHAN A. BROWN.

Copy of document marked H, annexed to said petition.

GENERAL LAND OFFICE, *November 16th*, 1838.

GENTLEMEN: You will peiceive by the terms of the President's proclamation, for the sale of lands in your district in January next, that private claims are expressly excluded from sale; and you will, consequently, under no circumstances, offer for sale any lands to which there may be private claims that had been duly filed before the expiration of two years from the passage of the act of 6th February, 1835, for the final adjustment of claims to lands in the State of Louisiana. It is considered proper to address this communication to you, in order to call your special attention to the subject of claims that have been duly filed, and prevent the possibility of the sale of them by any oversight on your part.

Very respectfully, your obedient servant,

Signed, JAS. WHITCOMB, *Commissioner.*

REGISTER AND RECEIVER, *Natchitoches, Louisiana.*

Copy of letter.

GENERAL LAND OFFICE, *January 8th*, 1839.

SIR: I have to acknowledge the receipt of your communication of the 5th instant, accompanied by a copy of a letter from A. McIntyre, esq., of Albany, respecting certain claims, which, it is presumed, are those entered in the report of the register and receiver at Opelousas, on claims between the Rio Hondo and the Sabine river, at No. 180 and 181, in the names of Samuel Davenport and others.

Claims of this description are expressly excluded from sale by the

terms of the President's proclamation for the sale of lands in Louisiana, in the last month, and in the present year. The claims mentioned, it is believed, are within the present limits of the northwestern land district, Louisiana, the land office for which is at Natchitoches.

Herewith I enclose a copy of the proclamations referred to, with a notice, dated 18th December, 1838, that the sale is deferred of a portion of those lands which are to be sold at Natchitoches; also a copy of my letter, dated 16th November last, to the officers at that place on the subject of excluding private claims from sale. With a view of ascertaining the positions of those claims, as respects the public surveys, and also of ascertaining whether any, and, if so, what portion of them have been sold, I will immediately write to the proper district land officer in Louisiana, and when an answer shall be received, you shall be further advised on the subject.

With great respect, your obedient servant,

(Sig'd) JAS. WHITCOMB,
Commissioner.

Hon. OGDEN HOFFMAN,
House of Reps.

Document marked "E."

A LIST of Rio Hondo claims and entries, embraced within the limits of that portion of the Las Ormigas and La Nana grants (reported under Nos. 180 and 181) owned by Archibald McIntyre and Henry Yates.

Rio Hondo claims. (Las Ormigas.) Entries.

Name of confirmee.	No. of report.	Part of sections.	No. of T.	No. of R.	Quantity. Acres.	Quantity. 100ths.	No. of R. Receipt.	Name of purchaser.	Part of section.	No. of section	No. of T.	No. of R.	Quantity. Acres.	Quantity. 100ths.
John Litton -	114	N. ½ of 21 & W. ½ of 22	9	12	640	00								
Asa Backum	115	E. ½ of 22 & S. ½ of 15	9	12	640	00								
					La Nana.									
							524	Alanson Barr - -	SW. ¼ of NE. ¼	28	7	11	40	06
							1178	Wm. Jefferson Elam	E. ½ of SW. ¼	17	6	11	79	91
							1172	Henry Hall - -	E. ½ of NE. ¼ & NW. ¼ of NE. ¼	18	6	11	119	87
							523	Henry Hall - -	SW. ¼ of NE. ¼	18	6	11	39	95
							522	James Strickland -	NW. ¼ of NW. ¼	18	6	11	39	95
							1173	James Strickland	E. ½ of NW. ¼ & SW. ¼ of NW. ¼	18	6	11	119	87

NORTHWESTERN LAND OFFICE, *Natchitoches, La., February* 17, 1845.

United States vs. Yates & McIntyre.

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I do hereby certify the foregoing to be a true and correct representation of the Rio Hondo claims and entries within the limits of the McIntyre & Yates interest in the grants above specified, according to the records of the office.

Given under my hand and seal of office, the day and date above written.

[SEAL.] (Signed) WM. T. WALMSLEY, *Register.*

Answer.

And on the 9th day of April, 1845, the defendants, by B. Peyton, esq., United States district attorney, filed their answer in their clerk's office of said court, to wit:

U. S. district court.

HENRY YATES & ARCHIBALD MCINTYRE
vs.
THE UNITED STATES OF AMERICA.

The United States of America, by Balie Peyton, their attorney, for answer to the petition in the above entitled suit, denies all and singular the allegations therein contained, and require strict and full proof thereof; and pray to be hence dismissed with costs, and for general relief.

(Sig'd) J. W. SMITH,
For B. PEYTON, *U. S. Att'y.*

(Sig'd) BALIE PEYTON,
U. S. Att'y of La.

And on the 5th of May, 1845, the following entry was made on the minutes, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES. } No. 5.

This cause being called, Baldwin, esq., of counsel for plaintiff, and being present, and stating that the plaintiffs were not ready for trial, it is ordered, that the case be continued. Upon further motion of counsel, it is ordered that plaintiffs be allowed to amend their petition in conformity with the rules of court.

The original petition filed on the 14th day of March, 1845, was amended and corrected in the original by plaintiffs, according to the following amended petition, and the order of court thereupon, filed on the 5th day of May, 1845.

United States district court, district of Louisiana.

HENRY YATES & ARCHIBALD MCINTYRE
vs.
THE UNITED STATES.

To the honorable Theodore H. McCaleb, judge of said court.

The petitioners, by their counsel, H. Baldwin, respectfully ask leave to amend their petition, filed in this behalf, by striking out the word

parish, where the same applies to the parish court of the parish of Natchitoches, and insert in lieu thereof probate, so that same, when corrected, will read probate court of the parish of Natchitoches.

And also to amend by adding an averment, that no money has ever been refunded by the United States on account of the selling or granting any of the premises in said petition described by the United States.

All which is respectfully submitted by

(Sig'd) H. BALDWIN,
Counsel for petitioners.

Dated New Orleans, May 5th, 1845.

Order of the court thereon.

Let this petition be filed, and let the amendment take place as demanded.

(Sig'd) THEO. H. McCALEB, *U. S. Judge.*

And on the 10th day of May, 1845, the following entry was made on the minutes, to wit:

Monday, May 10th, 1845.

YATES & McINTYRE vs. THE UNITED STATES. } No. 5.

Present, honorable T. H. McCaleb.

Upon motion of the counsel for plaintiffs, it is ordered by the court that the clerk do open and file the depositions heretofore presented by the plaintiffs in this cause.

And on the 30th day of June, 1845, the following entries were made on the minutes, to wit:

Monday, June 30th, 1845.

YATES & McINTYRE vs. THE UNITED STATES. } No. 5.

The above entitled cause was, by order of the court, called this day, the counsel for the respective parties being present, and not objecting; Balie Peyton, esq., appearing for the plaintiffs, and S. W. Downs, United States district attorney, for the defendants; and, by the consent of parties by their attorneys, the said cause was ordered to be continued until the first Monday in January next.

On this day, in the above entitled cause, the plaintiffs, by their attorney, Bailie Peyton, esq., filed their application praying leave to amend their petition, and also praying that the time for taking testimony on the part of plaintiffs be extended until the first Monday in January next; whereupon it is ordered by the court that leave be given to the plaintiffs to amend their petition as prayed for, and that they have until the first Monday in August next to file said amendment; and it is further ordered, that the time for taking testimony on the part of the said plaintiffs be extended until the first Monday in January next.

And on the 7th day of July, 1845, the following entry was made on the minutes, to wit:

YATES & MCINTYRE vs. THE UNITED STATES. } No. 5.

The counsel of plaintiffs in this case presented an amended petition, which was ordered to be filed, and copies to be served upon the district attorney.

And on the 7th day of July, 1845, the following amended petition was filed, to wit:

United States district court.

HENRY YATES and Archibald McIntyre vs. THE UNITED STATES. } No. 5.

To the honorable Theodore H. McCaleb, judge of the district court of the United States of America, in and for the district of Louisiana.

The amended and supplemental petition of Henry Yates and Archibald McIntyre, who are citizens of the State of New York, residing in the city of Albany, leave of court being first had and obtained for filing the same, respectfully represents, in addition to what is stated in the original petition: That the two tracts or parcels of land, called the La Nana, granted to Edward Murphy on the 4th day of August, 1798, and the Las Ormigas, granted to Jacinto Mora on the 15th day of December, 1795, and which are more particularly described in the original petition, are situated in that part of the late province of Louisiana which is now embraced within the limits of the State of Louisiana, and east of the river Sabine. That the said lands are claimed by virtue of the Spanish grants mentioned in the original petition, which were legally made and issued before the 10th day of March, 1804, to wit, at the time set forth in the original petition, by the proper Spanish authorities, to the said Edward Murphy and Jacinto Mora, each and both of whom were residents in the province of Louisiana on or before the 10th day of March, 1804, and which grants were protected under the treaty between the United States of America and the French Republic of the 30th day of April, one thousand eight hundred and three, and which were ratified and confirmed by the treaty between the United States and Spain of the day of in the year 1819; which grants, and the preliminary and subsequent proceedings relating to the same, were and are in the Spanish language, and of which true and correct translations, in substance and meaning, are set forth in the original petition, and not the Spanish documents, as is by mistake alleged at p. 4 of the original petition, which allegation it is prayed may be altered accordingly. Petitioners further alleged, that according to the treaty of the 30th April, 1803, between the United States and the French Republic, the western boundaries of the province of Louisiana included Nacogdoches and extended to the Rio del Norte, and was so

claimed by the United States, until the same was surrendered for a valuable consideration to Spain, by the treaty between the United States and Spain in 1819, before mentioned.

That while Spain exercised jurisdiction over the territory, and until after the year 1805, the jurisdiction of that section of the country lying between the river Sabine and Arroya Honder, or Rio Hondo, in which the lands in controversy are situated, belonged to the post of Nacogdoches, and was under the jurisdiction of the authorities of that post. Wherefore, the petitioners pray that the validity of the said grants may be inquired into by this honorable court, as well as all other matters connected therewith fit and proper to be inquired into, and by a final decree that your honor will settle and determine the question of the validity of the said grants, according to the law of nations, the stipulations of the treaties aforesaid, the laws, ordinances, and usages of Spain; and that your honor will order, adjudge, and decree, that the said grants are valid, and that your petitioners are the true and legal owners of the lands before mentioned, and more particularly described in the original petition. And your petitioners pray for general and equitable relief in the premises; and, as in duty bound, &c., &c., &c.

(Signed) PEYTON & SMITH,
Attys. and counsel for petitioners.

And on the 14th day of August, 1845, the following answer to the amended petition was filed, to wit:

To the honorable the district court of the United States for the district of Louisiana:

YATES & MCINTYRE
vs.
THE UNITED STATES.

Defendants, for answer to plaintiffs' amended petition in the above entitled cause, deny all and singular the allegations therein contained, and pray to be hence dismissed.

(Signed) E. WARREN MOISE,
For S. W. DOWNS,
U. S. Atty., Dist. Louisiana.

And on the 2d of day of February, 1846, the following entry was made on the minutes, to wit:

This being the regular monthly term for the trial of land suits, the docket was called, and the cases fixed as follows:

Monday, February 2d, 1846. Present, the Hon. T. H. McCaleb.

YATES & MCINTYRE
vs. No. 5.
THE UNITED STATES.

Fixed, by counsel for petitioners, for February, 16th inst. And on motion of B. Peyton, of counsel for petitioners, it is ordered, that the time for taking testimony be extended till said day of trial.

And on the 4th day of February, 1846, the following entry was made on the minutes, to wit:

Wednesday, February 4th, 1846. Present, the Hon. T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES. } No. 5.

On motion of Baldwin, of counsel for petitioners, the United States district attorney consenting thereto, it is ordered, that petitioners have leave to file an amendment to their petition, and the same is now presented and filed accordingly.

And on the 4th day of February, 1846, the following amendment to *to* their petition was filed, to wit:

United States district court, district of Louisiana.

HENRY YATES AND ARCHIBALD MCINTYRE
vs.
THE UNITED STATES.

And the said Henry Yates and Archibald McIntyre, the plaintiffs and petitioners in the above entitled suit, by consent of the above named parties, and by leave of the court first had and obtained, hereby further amend their said petition filed in the above cause, as follows, to wit:

And your petitioners further represent, that heretofore, to wit, in the year 1843, the local and civil authorities in said county of Sabine imposed and assessed upon said lands, so as aforesaid owned by your petitioners, a large amount of taxes, under and by virtue of the laws of said State of Louisiana; and that said taxes not being paid, your petitioners' lands aforesaid, or a large portion thereof, to wit, sixty thousand acres, lying in said La Nana and Ormigas tracts, were sold by the sheriff of said county of Sabine at public auction, (to wit, in the year 1844,) for said taxes so imposed and assessed as aforesaid, to and were bid in by one George W. Thompson, of said parish of Sabine, and by said sheriff conveyed to said Thompson, as by reference to said Thompson's deed from said sheriff, still remaining of record in the office of parish judge of said parish of Sabine, will more fully and at large appear, and to which your petitioners, for greater certainty, ask leave to refer unto and introduce, and give in evidence on the trial of this cause, as your honor may direct.

And your petitioners further represent, that said Thompson did, thereafter, to wit, on the 26th day of September, 1845, for a valuable consideration, to wit, the sum of eight hundred and eighty-eight dollars and seventy-nine and half cents, to him in hand paid by said Henry Yates and Archibald McIntyre, convey, by a good and sufficient deed of conveyance, said lands so purchased by him as aforesaid of said sheriff on said tax sale aforesaid, to said Henry Yates and Archibald McIntyre; which deed of conveyance last aforesaid, still remaining of record in the office of parish judge of the parish of Sabine aforesaid, reference being thereunto had, will more fully and at large appear, and

to which, for greater certainty, your petitioners ask leave to refer unto, and introduce in evidence on the trial of said cause, as your honor may direct.

And your petitioners pray that the amendment aforesaid may be annexed to and regarded as a part of their petition filed in this behalf. All which is respectfully submitted.

Signed, PEYTON & SMITH,
Attorneys, &c., for plaintiffs.

Signed, H. BALDWIN, *Of counsel.*

The notice of application for this amendment, and the service of the amendment, are acknowledged.

Signed, S. W. DOWNS,
U. S. att'y, dist. of La.

Feb'y 4th, 1846.

Order of court thereon.

Let the amendment be made as within prayed for, and let a rule be entered accordingly. February 4th, 1846.

Signed, THEO. H. McCALEB, *U. S. judge.*

And on the 4th day of February, 1846, the following answer to the foregoing amended petition, to wit:

District court of U. States of Louisiana, Feb'y, 1846.

YATES AND McINTYRE
vs.
THE UNITED STATES.

The defendants in this cause, for answer to the amended petition filed in this cause, deny all and singular the facts and allegations in the plaintiffs' amended petition contained, and will, on the trial of this cause, require strict proof of the same.

Signed, S. W. DOWNS,
U. S. att'y, dist. of La.

And on the 16th day of February, 1846, the following entry was made on the minutes, to wit:

Monday, February 16, 1846. Present, the Hon. T. H. McCaleb.

YATES AND McINTYRE
vs.
THE UNITED STATES. } No. 5.

This cause being called for trial, H. Baldwin, esq., appeared for petitioners. Respondents not appearing, the cause was opened on the part of the petitioners, and continued till Friday next, at 10 o'clock, a. m.

And on the further trial of this case, February 20th, 1846, the counsel for petitioners read in evidence from the American State Papers, title public lands, vol. 3, page 78, No. 46, as follows, to wit:

No. 46.—Edward Murphy, Samuel Davenport, William Barr, and Luther Smith, claim four leagues square of land situate east of the river Sabine, in that part of the country called the province of Texas. The

following is a translation, in substance, of the document of title under which the land is claimed:

Edward Murphy represents to Don Maria Guadiana, second lieutenant of artillery, and commandant military and civil of the post of Nacogdoches, that having, with the knowledge of the predecessor of said commandant, established a vacherie at a place known by the name of Laguna de Juan Mora, on which he has paid tithes to the priest, and this not being sufficiently stocked with cane for his large stock of cattle, he asks a concession of a tract of land at a place called Nana, (mother,) on the east side of the river Sabine, about seven leagues from its margin, on the road from Nacogdoches to Natchitoches, to be taken by lines from the centre of the tract, to be each two leagues in length, making four leagues on each front of the tract, running north and south, east and west.

22d February, 1798. EDWARD MURPHY.

At Nacogdoches, 1st July, 1794. The commandant orders that the proper officer shall put the petitioner in possession of the land solicited.

On the first of August, 1798, being on the land petitioned for, Joseph Cayetano de Sapeda, syndic, &c., certifies, that being on the land solicited, and having satisfied himself that there were no neighbors who could receive any injury from the possession of this land by said Murphy, the nearest inhabitant being at least eight leagues distant, he has put the said Murphy in possession, conformable to the decree of the commandant, by taking the said Murphy by the right hand, stepping several steps in each direction from the centre of the land, the said Murphy pulling up grass, cutting twigs, and taking turf, &c., as an evidence of the full possession of the land given, in presence of witnesses, in the name of his Majesty, &c. And as a further proof and evidence of possession, he has given to the said land the name of St. Pedro de la Nana, (St. Peter's mother;) under date 4th of August, 1798, the commandant ratifies the possession given by the syndic, and concedes the land to the said Murphy as his full property, to be peaceably enjoyed, &c. On the 3d November, 1798, Edward Murphy conveys the land to the above named claimants. Bertrand Plaisance, before the board, 29th October, 1812, has deposed, "that about sixteen years ago he saw a tree on the road, marked with the letter P, which tree was newly marked, and stands about ten arpens west of where the road from Nacogdoches to Natchitoches crosses a small bayou, called bayou Pierre, and about ten leagues west of the town of Natchitoches, at which time he was told by Samuel Davenport, one of the claimants, that said tree was a boundary mark of the above described tract of land; that, at that time, he saw another tree marked in the same manner, on the said road, about six leagues from the Sabine river, which he understood, from the same person, was marked as a boundary of the said tract; that an American, by the name of Burges, was settled on the land in question sixteen years ago, and that said Burges continued to reside there until about three or four years past, when he left the place, which was immediately occupied by a Spaniard; that Burges was em-

ployed by the claimants as a vacherie keeper; that large stocks of horses and cattle were kept on the land during the last sixteen years; that there is a house and a small farm on the land which has been occupied and cultivated during the time above mentioned by the said vacherie keepers.

The above evidence was taken in the claim of the above named claimants, for a tract of six leagues square, reported under No. 49, but, from the description of the situation of the land given by the deponent, it appears that he must have had reference to the claim under consideration. See note at the end of this report.

And further, on the said 20th of February, 1846, the counsel for the petitioners read in evidence, from the State papers, the report on the La Nana grant in 1816, page 79 and 80, and note at page 83, vol. 3.

No. 47, Edward Murphy, 2,222 $\frac{84}{100}$ acres, situate east of the Sabine river, in the former province of Texas, claimed under a Spanish concession, of which the following is a translation in substance: Edward Murphy petitions for a tract of land on the bayou Hondo, in the limits of the province of Texas, where a cove is formed between the road leading from the bayou Hondo to the bayou St. John, and which cove forms a convenient situation for a vacherè, where the cattle of petitioner may be collected.

October 17*th*, 1791.

NACOGDOCHES, 11*th October*, 1791.

The commandant, knowing the land to be in the province of Texas, and vacant, grants it as solicited.

ANTOÌNE GIL Y. LEARVO.

A plat of survey, by Samuel Cook, dated 7th December, 1806, is also filed with the notice.

Samuel Devanport, before the board, 6th May, 1814, hath deposed: "That he has been an inhabitant of Louisiana for at least twenty-eight years past; that, from the year 1798 to the year 1813, his settled residence was in the village of Nacogdoches, where, from having obtained from the commandant general of the internal provinces of Mexico, the grant of an exclusive privilege to himself and his co-partner in trade, (a Mr. Barr,) to carry on trade with the Indians; and, from his particular intimacy with the several commandants, and other Spanish officers at Nacogdoches, during the above period, he acquired an accurate knowledge of the Spanish usages, in relation to the dispositions of lands in what was at that time understood to be the province of Texas. That he is perfectly acquainted with the Spanish language, and has so thorough a knowledge of the handwriting of the several commandants, who have served at Nacogdoches between the terms above stated, that it is scarcely possible he could be deceived in any of them. That he has examined the documents filed in said claim, (signed Antoine Gil Y. Learvo,) which he knows to be the signature of said Y. Learvo, who, from circumstances within the knowledge of the deponent, and particularly from his having been removed from office, either in the year 1798, or the preceding year, to the best of the deponent's recol-

lection, is known to have been commandant, civil and military, at Nacogdoches, for near twenty years.

The deponent further saith, that the document, above referred to, is in the form usual in conceding lands in said province at that date.

The deponent further saith, that it is a fact well understood, that the commandants of Nacogdoches, from the remote situation of the post, were vested with full powers to concede, absolutely, any lands within the limits of the jurisdiction of Nacogdoches; which, until after the cession of Louisiana to the United States, was bounded on the east and south by the river Hondo, lake La Terre Noire, bayou Casache, and river Kelkechute, and on the west by the river Trinity. That five of the internal provinces of Mexico were under the government of a commandant general; and these provinces separately governed by a governor within the same, whose business it was to make periodical visits to the several posts under his jurisdiction for the purpose of redressing grievances and settling controversies between the inhabitants; but who always regarded the right of the commandants to concede lands as full and complete without any ratification being necessary on his part." See note at the end of this report.

No. 48. Edward Murphy claims four leagues square on a lake called Juan de Mora, setting forth in his notice that the land is situate in the territory in dispute between the Government of the United States and his Most Catholic Majesty, "under a deed of conveyance from John Quingetty, which deed is in the archives of the province of Texas, at Nacogdoches."

The notice of the claim is unaccompanied by any document.

Bertrand Plaisance, before the board, 29th October, 1812, hath deposed: "That the land was originally granted for a vacheré to a man by the name of John Quingetty, at least twenty-five years ago, and that it has been kept up ever since as a vacheré, having also a small part in cultivation every year, by those residing there as vacheré keepers." See note at the end of this report.

No. 49. Edward Murphy, Samuel Devanport, William Barr, and Luther Smith, [claim] six leagues square, say 211.570 $\frac{3}{10}$ acres, under a Spanish concession to Jacinta Mora, of which the following is a translation in substance:

Jacinta Mora, inhabitant of Nacogdoches, solicits six leagues square of land on the east side of Sabine river, in the province of Texas, at a place called Las Ormigas, the place called the ("Los Yndios,") or Indian Ford, to be in the centre of the front line, and the lines to run east, west, north, and south, at right angles.

NACOGDOCHES, 14*th November*, 1795.

Under the same date, at Nacogdoches, Bernardo Fernandez, commandant of Nacogdoches, orders, that the proper officer, José Cayetano, syndic, *to* put the party in possession of the land solicited, taking care that it shall not prejudice any other person.

December 2*d*, 1795.

Joseph Cayetano de Sepeda, syndic, &c., in compliance with the

order of the commandant, and in the presence of J. Moras, with the assisting witnesses, (using the same ceremony as in report No. 46,) puts the party in possession, and names the place St. Maria Adelaide of Ormegas.

On the 15th December, 1795, John Bernardo Fernandez, lieut. of cavalry, and lieut. governor of Nacogdoches, confirmed the possession given by the syndic, and concedes the lands in perpetuity to the petitioner and his heirs, &c.

On the same paper, and following the foregoing, is a transfer of the land from the said Moras to William Barr & Co., passed before the commandant Dionisio Vallé, dated 22d July, 1805.

Gaspard Boudin, before the board, the 29th October, 1812, hath deposed: That the land has been made use of as a vacheré for the last thirty-five years. That Edward Murphey has claimed the land from the time of his earliest recollection; he being now upwards of forty-six years of age. That stocks of horses and cattle have been kept on the said land constantly for the last thirty-five years, by persons employed by said Murphy; and that, during that time, there has been a house and small farm on the land, which was occupied and cultivated by those who resided on the place as stock-keepers.

Bertrand Plaisance, aged thirty-eight years, deposeth: That the land above mentioned has been occupied as a vacheré, as above stated, for at least sixteen years; but he is not able to say for a longer time, as he was not in that part of the country at an earlier date.

October 29th, 1812.

Don Bernardo Dortolant, of the county of Natchitoches, before Barthelemew Fleming, justice of peace of said county, the 14th March, 1814, hath returned the answers annexed to the following interrogatories, propounded by the board of commissioners.

Interrogatory 1. Do you know who were the commandants at Nacogdoches from the year 1791 to 1798?

Answer. Don Bernardo Fernandez was the first, and Don Jose Mr. Gaudina, his successor in office.

Interrogatory 2. Do you know whether said commandants had the power of granting lands, and under what restrictions?

Answer. Yes, they were authorized, and conceded lands to the inhabitants in proportion of their stock, which was the sole restriction to which they were subject, and of which the procurer of the people had to give his opinion before they got possession and titles.

Interrogatory 3. Were those grants considered as complete titles, or as mere permission to settle, subject to the future order of some superior authority or tribunal?

Answer. These grants were considered as complete titles when executed in the manner following, to wit: The individual presented to the commandant his memorial, praying the concession of a certain piece of land, situate as specified in the writing, and exposing his merit and right to such a gift. The commandant consulted with the attorney

general, and they agreed that the petitioner merited the extent of land prayed for, or a part of it; he ordered the attorney to put him in possession of all, or a part, according to the determination, without prejudice to a third. The attorney proceeded in consequence thereof, accompanied by the interested party and two assisting witnesses, to the land, where, in the form prescribed by law, he put him possession, according to the order, giving it all possible strength with his witnesses, and the person receiving the gift; gives his proceedings to the commandant, who confirms them, and places them in the archives, and gives a testified copy to the individual, to serve as a title.

Interrogatory 4. Were grants, of the extent claimed, common in that country?

Answer. They were common, and were conceded for grazing ground or increase the stocks; therefore, the inhabitants are few in that country where they keep cattle, and possess land according to their means.

Interrogatory 5. Do you know Jacinta Mora, and had he claims on the Spanish Government for larger grants than usually given?

Answer. I know Jacinta Mora. The time the Spaniards had the Adays, about forty years ago, who, with his family, claimed the lands called the Armigas, situate on the east side of the Sabine; since when he has had his pastures there, where he had cattle, cavalcades, &c., and that he has held in good faith since 1795; all which I know.

Interrogatory 6. Do you know the firm of Murphy, Barr, Devanport, and Smith, and had they, in consequence of any service rendered, any claim for grants of lands of greater extent than other individuals under the Spanish Government? Relate all you know with respect to the said lands.

Answer. I know the above named company; that they had a large trading house at Nacogdoches for a long time; they were acknowledged as citizens of the government; had a great many persons in their employ; had large stocks, and, in consequence, needed large pastures, (they had the trade with the Indian nations of the north,) which was all seen by the government; and I believe they merited much of it for their services with Indian nations.

The foregoing interrogatories being also put to Pedro Procela, of the said county of Natchitoches, at the same time and place as the above, and by the said Fleming, justice of the peace, he has answered in the same to each interrogatory, and hath added the following: "I also know Dionicia Valle, who was commandant of Natchitoches in 1805. I also know his signature, affixed to the testified copy of the title for the lands of Ormigas, granted to Jacinta Mora, and sold by him to Barr and Devanport. I also know the signature of J. Ma. Gaudiana, affixed to the sale given to the said company." The deponents, from probably not understanding the English language, have preferred answering the interrogatories in their native tongue, (Spanish,) from which the foregoing is a translation. See note at the end of these reports.

No. 5. Edward Murphy, 727 acres on the bayou St. John, claimed

under a grant from the Spanish Government. The notice of this claim is unaccompanied by any document of title. Gaspard Boudin, before the board, 29th October, 1812, hath deposed, "that a Spaniard, whose name is not known to the deponent, but is generally known by the name of St. John, settled on the land in question for said Murphy, fourteen years ago, and has continued to reside on, and cultivate the same ever since, without permission, for the use and benefit of said Murphy, or his representatives, (said Murphy having died about three years ago.) That said Murphy was the head of a family on the 20th December, 1803, and then resided in the county of Natchitoches. It is believed that the land claimed under this entry is embraced in the confirmation in favor of the heirs or legal representatives of said Murphy, by commissioners' certificate, No. 2110 or 2131. The confirmation of this claim, therefore, cannot be recommended.

Note from page 83 *as heretofore stated:*

NOTE.—Several claims entered with the deputy register, for the county of Natchitoches, are known to be for lands lying west of the Rio Hondo, and within that part of Louisiana, the United States' claim to which has been disputed by the Spanish Government. The commissioners have not hesitated, on account of the doubt as to which nation the sovereignty of the country may belong, to decide on the claims of persons deriving their rights from acts of Congress, granting donations from occupancy, &c., because, however the question of sovereignty may ultimately be decided, no inconvenience, they conceive, could result from their decision; but if the question should be settled in favor of the United States, there would be this advantage, that the inhabitants would be quieted in their possession.

The claims on this report, numbered 46, 47, 48, 49, 53, and 63, are also for lands lying west of the Rio Hondo, and the documents of title under which they are held have emanated from Spanish authorities at Nacogdoches, of whose powers and authority the commissioners have had no means of acquiring satisfactory information, and therefore decline deciding on those claims. It will be seen that most of them are for very large tracts of land, which, from the tenor of the petitions, were designed principally for vacheré establishments. The commissioners have remarked that, to persons holding offices under the Spanish Government, and persons who may have rendered services to the government, it has been customary to make very large concessions of land.

That Samuel Davenport, William Barr, Luther Smith, and Edward Murphy, joint copartners in commercial houses established at Nacogdoches and Natchitoches, who are the principal claimants of the land thus circumstanced, did, for many years, enjoy, under the Spanish Government, in the province of Texas, the exclusive right of trading with the Indians in that quarter, is a matter of public notoriety. Mr. Davenport, one of said copartners, has submitted to the board a number of original letters from governors, and other persons in authority in the

said Spanish province, dated between the years 1804 and 1812, in which they are sometimes styled "Traders General." In one of those letters the commandant of Nacogdoches (Sebastian Rodrigues) informs William Barr that the governor of the province (Antonio Cordera) had ordered him to furnish the said Barr with twenty soldiers, under the command of an intelligent sergeant, with ammunition and provisions for a voyage of two months, to enable Mr. Barr to explore and sound the mouths of the rivers Carriente, Sabine, and Antoyayne, travelling by land, &c. In another letter to Mr. Barr from said commandant, he acknowledges the receipt of documents of observation made for the purpose of ascertaining the mouth of the river Calcasuit, and hopes he will soon be furnished with the rest of his commission. In another letter from Simon Eterrara to Samuel Davenport and William Barr, they are requested to furnish the troops of the quarter with provisions, and that they will be thanked for this new proof of being good servants to the King. In another letter to the same persons from Governor Salcedo, it is stated that there is enclosed a memorandum of toys, goods, &c., for the use of the Indians in their jurisdiction. From the foregoing the commissioners are induced to believe that a part of the lands above alluded to may have been conceded as a recompense for the services and loyalty of the above named persons, and as a remuneration of disbursements which it is likely they may have made for the use of the government. Signed duplicates.

WILLIAM GARRARD,
LEVIN WAILES,
GIDEON FITZ.

By order of the board:

LLOYD POSEY, *Clerk.*

And further, on the said 20th day of February, 1846, the counsel for the petitioners read in evidence, from the American State Papers, volume 3, page 73, the following tabular statement, to wit:

LAND OFFICE, WESTERN DISTRICT,
STATE OF LOUISIANA, *May* 4, 1815.

To the honorable Commissioner of the General Land Office in the Treasury Department of the United States:

The undersigned, commissioners appointed for the purpose of ascertaining the rights of persons to lands within the district aforesaid, have the honor to report, in continuation, the following list of claims to land within the county of Natchitoches, claiming the same agreeably to the order observed in their report made on the 16th of October, 1812, of claims in the county of Concordia, to which they beg leave to refer. (See volume 2, No. 217.)

Claims to land in the county of Natchitoches.

Reported No.	Register's No.	By whom claimed.	Original proprietor or claimant.	Quantity claimed.	Nature and date of the title or claim.	Class.
1	98	John Adley	Not mentioned	160 acres	Not mentioned	C
2	–	John Adley	John Adley	600 arpens	Spanish concession	C
3	127	John B'te Anty	Not mentioned	Not mentioned	Possession and occupancy	C
4	1	William Ash	Not mentioned	640	Settlement	C
5	2	Joseph Maria Armand	Joseph Maria Armand	Unknown	Spanish concession	C
6	D 160	Hypolite Bourdelin	Dehuste, an Indian	843 acres	Purchased from an Indian in 1790	C
7	3	John Burnet	John Cuyerrier	620.75 acres	Settlement by permission	C
8	261	Francoise Bossié	Francois Bossié	237 arpens	Use of the timber	C
9	88	Mary, Ruth, Booker, and Wm. Etridge	Antoine Booker	One league square	Grant	C
10	132	Placide Bossié	Placide Bossié	312 acres	Spanish usages	C
11	2	Sylvester Bossié	Sylvester Bossié	800 arpens	Order of survey	B
12	–	Louis Godefroy Belhumeur	Pierre Gagnier	560 arpens	Spanish title, dated April, 1792.	B
13	–	David Case	Maria Antoine	800 arpens	Order of survey	B
14	47	Alexis Cloutier	Alexis Cloutier	640 acres	Settlement	C
15	228	Pierre Cheletre	Joseph Maes	Not ascertained	Spanish patent, dated in 1794	C
16	4	Samuel Coburn	Antoine Lenoir	585.40 acres	Settlement by permission	C
17	21	Louis Cleaseau	Louis Cleaseau	215 acres	Spanish grant	C
18	161	David Case	Widow St. Dennis	480 arpens	Not mentioned	C
19	54	Louis Cuyerrier	Antoine Poissot	640 acres	Settlement	C
20	184	Francois Dubois	Nicholas Mercier	280 arpens	Grant	C
21	–	Wm. Duncan and Alexander Bailie	Marsel de Soto	5,890 acres.	Order of survey in 1763	B
22	143	Louis Fostin	Not mentioned	3.2 acres	Settlement	C
23	–	Benj. Goodin and Alexander Bailie	Joseph Petit	480 arpens	Order of survey	B
24	–	Benj. Goodin and Alexander Bailie	Baptiste Migneron	585.40 acres	Not mentioned	C
25	–	Benj. Goodin and Alexander Bailie.	A. Lenoir & M. Rombar	640 acres	Settlement	C

Claims to land in the county of Natchitoches—Continued.

Reported No.	Register's No.	By whom claimed.	Original proprietor or claimant.	Quantity claimed.	Name and date of the title or claim.	Class.
26	-	Antoine Grillet	Marin Grillet	280 acres	Spanish grant, 16th May, 1794	B
27	-	Maria Louisa Grillet	Marin Grillet	280 acres	Spanish grant, 16th May, 1794	B
28	89	Genevieve Gone	Not known	146,57 acres	Not mentioned	C
29	-	François Grappe	Cajadet, an Indian	8,296 arpens	Purchase from Indians	B
30	-	Pierre Gagnier	John Sohano, a christian Indian	213.13	Purchase and settlement	C
31	265	Antoine Grillet	François Le Vassure	280 arpens	Grant	B
32	264	Antoine Grillet	—— Dubois	54.99 acres	Settlement	C
33	74	Antoine Hymel	Widow Hymel	718.50 acres	Grant, dated 24th May, 1796	B
34	107	Nicholas Lauve	Not mentioned	Lot, village Natchitoches	Not mentioned	C
35	76	Thomas M. Leonard	Etienne Duget	640 acres	Settlement	C
36	1	Pierre Joseph Maes	Widow Dartigaux	Not ascertained	Grant, dated 16th May, 1794	C
37	1	Pierre Joseph Maes	Pierre Joseph Maes	Not ascertained	Grant, dated in 1794	C
38	-	Edward McLaughlin	Joseph Procello	400 acres	Settlement	C
39	-	Maria Louisa Marriotte	Antoine Bergeon	160 arpens	Settlement	C
40	60	Bertrand Mailloux	Santeago Faure	723 arpens	Spanish grant, 27th March, 1795	B
41	18	Pierre Mailloux	Not mentioned.	46.77 acres	Settlement	C
42	155	Maria Jean, free negress	Joseph Bissonnet	400 arpens	Not mentioned	C
43	13	Pierre Metoyer	Widow Alorge	Not ascertained	Purchased 15th February, 1778	C
44	-	Pierre Metoyer	Daniel Pain	Not ascertained	Purchased 7th June, 1771	C
45	-	Heirs of James Morrison	James Morrison	8,944.38 arpens	Spanish grant, 12th June, 1790	C
46	-	Edward Murphey & others	Edward Murphey	4 leagues square	Spanish grant, 1st July, 1798	
47	-	Edward Murphey	Edward Murphey	2,222.84 acres	Spanish grant, 18th October, 1791	
48	-	Edward Murphey	John Quingelty	4 leagues square	Spanish grant	
49	-	Edward Murphey & others	Jacinto Mora	6 leagues square	Spanish grant, 14th November, 1795	
50	-	Edward Murphey	Not mentioned	727 acres	Spanish grant	C
51	-	Augustin Metoyer	William Le Brem	200 arpens	Order of survey, 8th June, 1797	B
52	-	John Nicholls	William Soderlin	700 acres	Complete title, in June, 1798	B
53	-	Joseph Piernas	Jacinto Mora	26.280 arpens	Spanish grant	

54	–	Margaret B. Prudhomme	Antoine St. Denis	Not known	Not known	C
55	–	Theresa Malette	Not mentioned	A league square	Grant which has been lost	B
56	–	Maria Louise Porter	Not mentioned	10 acres front	Settlement	C
57	–	Antoine Prudhomme	Jacques Le Vasseur	59 acres	Grant, dated 24th May, 1796	C
58	–	John B'te Piedfirm	A. Lenoir and J. B. Larenadier	1,600 arpens	Not mentioned	C
59	–	John B'te Piedfirm	Antoine Lenoir	800 arpens	Not mentioned	C
60	–	Charles Paire	Not mentioned	Lot in Natchitoches	Occupancy	C
61	–	Charles Paire	Athanaze Lecour	800 arpens	Order of survey, 18th April, 1789	B
62	–	Charles Paire	John B'te Dartigaw	640 arpens	Order of survey, 13th March, 1797	B
63	–	Maria Louise Porter	John B'te Dartigaw	2 leagues square	Spanish grant, 31st July, 1797	
64	–	François Roquier, sen'r	François Roquier, sen'r	400 arpens	Grant, dated 22d August, 1796	B
65	–	Louis B. Rachel	Jaques Le Vasseur	59 acres	Grant, dated 24th May, 1796	C
66	–	Andre Rambin	Ignace Mailloux	259.51 acres	Order of survey	C
67	–	Andre Rambin	Cayacaille, an Indian and his wife	Not ascertained	Purchased from Indians	C
68	–	Andre Rambin	The Chevallier Poiret	Lot in Natchitoches	Not mentioned	C
69	–	Louis Barthelemy Rachel	Not mentioned	An island	Not mentioned	B
70	–	Barthelemy Rachel	Not mentioned	Not known	Spanish grant, 27th March, 1791	C
71	–	Madam B. Rachel	Louis Toten	Not ascertained	Spanish grant	C
72	–	Louis Simeon Rachel	Not mentioned	92.50 acres	Not mentioned	C
73	–	Pierre Rousseau	Pierre Rousseau	1.600 arpens	Order of survey, 12th July, 1786	B
74	–	John Sibley	Not mentioned	640 acres	Settlement	C
75	–	John Sibley	Not mentioned	Not ascertained	Not mentioned	C
76	–	Felix Trudeau	Not mentioned	640 acres	Settlement	B
77	–	Edward D. Turner	Nicholas Lauve & wife	730 arpens	Occupancy	C
78	–	Ed. Teal, A. Downey, and P. Sydec	Not mentioned	640 acres	Settlement	C
79	–	Noble Wilkins	Noble Wilkins	Not known	Order of survey, 6th May, 1795	B

Claims to land in the county of Natchitoches—Continued.

Reported No.	Register's No.	By whom claimed.	Original proprietor or claimant.	Quantity claimed.	Name and date of the title or claim.	Class.
26	-	Antoine Grillet	Marin Grillet	280 acres	Spanish grant, 16th May, 1794	B
27	-	Maria Louisa Grillet	Marin Grillet	280 acres	Spanish grant, 16th May, 1794	B
28	89	Genevieve Gone	Not known	146,57 acres	Not mentioned	C
29	-	François Grappe	Cajadet, an Indian	8,296 arpens	Purchase from Indians	B
30	-	Pierre Gagnier	John Sohano, a christian Indian	213.13	Purchase and settlement	C
31	265	Antoine Grillet	François Le Vassure	280 arpens	Grant	B
32	264	Antoine Grillet	—— Dubois	54.99 acres	Settlement	C
33	74	Antoine Hymel	Widow Hymel	718.50 acres	Grant, dated 24th May, 1796	B
34	107	Nicholas Lauve	Not mentioned	Lot, village Natchitoches	Not mentioned	C
35	76	Thomas M. Leonard	Etienne Duget	640 acres	Settlement	C
36	1	Pierre Joseph Maes	Widow Dartigaux	Not ascertained	Grant, dated 16th May, 1794	C
37	1	Pierre Joseph Maes	Pierre Joseph Maes	Not ascertained	Grant, dated in 1794	C
38	-	Edward McLaughlin	Joseph Procello	400 acres	Settlement	C
39	-	Maria Louisa Marriotte	Antoine Bergeon	160 arpens	Settlement	C
40	60	Bertrand Mailloux	Santeago Faure	723 arpens	Spanish grant, 27th March, 1795	B
41	18	Pierre Mailloux	Not mentioned.	46.77 acres	Settlement	C
42	155	Maria Jean, free negress	Joseph Bissonnet	400 arpens	Not mentioned	C
43	13	Pierre Metoyer	Widow Alorge	Not ascertained	Purchased 15th February, 1778	C
44	-	Pierre Metoyer	Daniel Pain	Not ascertained	Purchased 7th June, 1771	C
45	-	Heirs of James Morrison	James Morrison	8,944.38 arpens	Spanish grant, 12th June, 1790	C
46	-	Edward Murphey & others	Edward Murphey	4 leagues square	Spanish grant, 1st July, 1798	
47	-	Edward Murphey	Edward Murphey	2,222.84 acres	Spanish grant, 18th October, 1791	
48	-	Edward Murphey	John Quingelty	4 leagues square	Spanish grant	
49	-	Edward Murphey & others	Jacinto Mora	6 leagues square	Spanish grant, 14th November, 1795	
50	-	Edward Murphey	Not mentioned	727 acres	Spanish grant	C
51	-	Augustin Metoyer	William Le Brem	200 arpens	Order of survey, 8th June, 1797	B
52	-	John Nicholls	William Soderlin	700 acres	Complete title, in June, 1798	B
53	-	Joseph Piernas	Jacinto Mora	26.280 arpens	Spanish grant	

54	–	Margaret B. Prudhomme	Antoine St. Denis	Not known	Not known	C
55	–	Theresa Malette	Not mentioned	A league square	Grant which has been lost	B
56	–	Maria Louise Porter	Not mentioned	10 acres front	Settlement	C
57	–	Antoine Prudhomme	Jacques Le Vasseur	59 acres	Grant, dated 24th May, 1796	C
58	–	John B'te Piedfirm	A. Lenoir and J. B. Larenadier	1,600 arpens	Not mentioned	C
59	–	John B'te Piedfirm	Antoine Lenoir	800 arpens	Not mentioned	C
60	–	Charles Paire	Not mentioned	Lot in Natchitoches	Occupancy	C
61	–	Charles Paire	Athanaze Lecour	800 arpens	Order of survey, 18th April, 1789	B
62	–	Charles Paire	John B'te Dartigaw	640 arpens	Order of survey, 13th March, 1797	B
63	–	Maria Louise Porter	John B'te Dartigaw	2 leagues square	Spanish grant, 31st July, 1797	
64	–	François Roquier, sen'r	François Roquier, sen'r	400 arpens	Grant, dated 22d August, 1796	B
65	–	Louis B. Rachel	Jaques Le Vasseur	59 acres	Grant, dated 24th May, 1796	C
66	–	Andre Rambin	Ignace Mailloux	259.51 acres	Order of survey	C
67	–	Andre Rambin	Cayacaille, an Indian and his wife	Not ascertained	Purchased from Indians	C
68	–	Andre Rambin	The Chevallier Poiret	Lot in Natchitoches	Not mentioned	C
69	–	Louis Barthelemy Rachel	Not mentioned	An island	Not mentioned	B
70	–	Barthelemy Rachel	Not mentioned	Not known	Spanish grant, 27th March, 1791	C
71	–	Madam B. Rachel	Louis Toten	Not ascertained	Spanish grant	C
72	–	Louis Simeon Rachel	Not mentioned	92 50 acres	Not mentioned	C
73	–	Pierre Rousseau	Pierre Rousseau	1.600 arpens	Order of survey, 12th July, 1786	B
74	–	John Sibley	Not mentioned	640 acres	Settlement	C
75	–	John Sibley	Not mentioned	Not ascertained	Not mentioned	C
76	–	Felix Trudeau	Not mentioned	640 acres	Settlement	B
77	–	Edward D. Turner	Nicholas Lauve & wife	730 arpens	Occupancy	C
78	–	Ed. Teal, A. Downey, and P. Sydec	Not mentioned	640 acres	Settlement	C
79	–	Noble Wilkins	Noble Wilkins	Not known	Order of survey, 6th May, 1795	B

And further, on the said 20th day of February, 1846, the counsel for the petitioner introduce in evidence, from the American State Papers, vol. 4, pages 34, 35, and 36, to wit:

The first object of the board was to ascertain, from the best sources within their reach, the laws and customs of the Spanish province of Texas, as regards the granting of lands, &c.; the extent of the late neutral territory, together with other information necessary to a satisfactory discharge of the duties imposed upon us; for which purpose, in default of every kind of authentic or public data, we were compelled to have recourse to the knowledge of individuals of respectability, who, from their situation or pursuits, were deemed best capable of throwing lights upon those points of inquiry. Samuel Davenport, José Maria Mora, José Flores, Gregorio Mora, José Bernardo Guitriez, and Juan Cortes, all of the parish of Natchitoches, to the following interrogatories, under oath, before the board, declared as follows, to the first, viz:

Were you acquainted with the organization of the government of the province of Texas, the powers and jurisdiction of its officers, and its laws, regulations, and customs, previous to the 20th of December, 1803, relative to grants of lands, or the alienation of the public domain?

Answer of Samuel Davenport. I resided at Nacogdoches, in the province of Texas, early in 1798, where I lived until 1813; enjoyed all the rights and privileges of citizenship; became early acquainted with the internal organization of that government, and the powers of its officers, regulations, and laws, relative to the granting of lands belonging to the royal domain.

Answer of José M. Mora. I was born and have resided within the jurisdiction of Nacogdoches, province of Texas.

Answer of José Flores. I was, at divers times, procurador of the comm'r of Nacogdoches, &c., and have put several claimants in possession under the decrees of the lieutenant governors and commandants.

Answer of Gregorio Mora. That he was employed as procurador in Nacogdoches, and knows the powers of the commandants and lieutenant governors for the granting of lands within that jurisdiction; is an inhabitant of the Adais, and was born in Nacogdoches.

Answer of José Bernardo Guitriez. I am a creole of the province of New St. Andre, one of the internal provinces of Mexico, and resided in the city of Revilla until the year 1811; that I am well acquainted with the laws and regulations that are in force in that province for the granting and disposing of vacant lands, and that they are the same as recognised in the province of Texas from the titles and grants I have seen.

Answer of John Cortes. I have no knowledge of the proceedings of the government of Texas relative to grants of lands previous to the 20th December, 1803.

To the second interrogatory, viz:

Did the lieutenant governors and commandants of Nacogdoches

each possess the power of granting lands within their jurisdiction? If so, was there no limitation in the exercise of that right?

Answer of S. Davenport. The lieutenant governors and commandants possess the power to grant lands in their jutisdiction; were not limited by superior authority to specific quantities in the exercise of that right, and were only instructed to proportion their grants to the property, force, stock, and merit of the individual asking grants. The procurador del comun was the officer appointed to make the inquiry, put the petitioner in possession of the land prayed for, and executed the lieutenant governor's and commandant's orders relative to the premises. It was not uncommon to grant large and extensive tracts of land for vacheries and stock ranges, not only in the province of Texas, but in all the "las provincias internas;" the raising of stock of every description being almost the only pursuit of the inhabitants of that country.

Answer of José M. Mora. It is to my knowledge that the commandants and lieutenant governors, commanding within the jurisdiction of Nacogdoches, had the power to grant lands as far back as the year 1792, at which time a commissioner, having special orders, came with instructions and rules for the granting of lands, which rules and instructions were deposited among the public records, and governed the commandants and lieutenant governors in their grants since that time. Before the year 1792, the commandant of Nacogdoches gave only permits to settle for the purpose of cultivation, or for raising stock, without any other title of property, which he was not authorized to give. The commandants and lieutenant governors of Nacogdoches were not, to my knowledge, limited in the granting of lands to any specific quantity, but it was their duty to proportion the extent of the grants to the circumstances of the individual claiming them, and to that effect the procurador of the comun, named to put the party in possession, inquired into the merits and circumstances of the applicants; and if the grant was for stock farmers, it was customary to extend the concession to two, three, and four leagues square, according to the wants and merits of the claimants.

Answer of José Flores. That, having seen the answer of Jose Maria Mora, swears to the same facts; that he has been procurador of the comun of Nacogdoches at divers times, and has put several claimants in possession under the decrees of the lieutenant governors and commandants of Nacogdoches, according to the regulations of the country, and that they are the same which appear in the titles of Pedro Dolet, Jaciento Mora, and others, that he has seen.

Answer of Gregorio Mora. That, having seen the answers of Jose Maria Mora, swears to the same facts; that he has been employed as procurador in Nacogdoches, and that he knows the power of the commandants and lieutenant governors for the granting of lands within that jurisdiction.

Answer of Don Juan Cortes. In the year 1805 and since, I was informed, and knew by experience, that the lieutenant governors and

commandants of Nacogdoches were in no respect limited as to the extent of lands they might concede; the quantity was always in proportion to the means of the applicant, and to the nature of the establishment he wished to make. If it was for cultivation, and raising animals of all kinds, and the means of the petitioner were known, they would grant to him a concession of from one to four leagues square, on which the claimant was put in possession by the sydnic named for that purpose by the commandant, who, afterwards approving in writing 'la prise de possession,' was considered as amounting to a concession in form.

To the third interrogatory, viz:

Were grants signed by the commandant or lieutenant governor considered as vesting a perfect title in the claimant, or were they deemed merely inchoate rights, to be perfected by a grant or patent under the signature of the governor of the province?

Answer of Samuel Davenport. All grants signed and confirmed by the lieutenant governor or commandant, executed in due form, were considered as vesting a complete title in the claimant without any further process, and were recognised as such by the governor of the province, particularly by Governor Salcedo, in eighteen hundred and ten, when at Nacogdoches making his provincial visit.

Answer of José M. Mora, confirmed by the testimony of José Flores and Gregorio Mora. The grants given and signed by the commandants and lieutenant governors of Nacogdoches, made according to the instructions which existed since 1792, were always considered as perfect titles without any other formality.

Answer of Juan Cortes. Concessions signed by the lieutenant governor or commandant were always considered as perfect titles.

To the fourth interrogatory, viz:

What were the limits of the late neutral territory, as considered by the ancient authorities of Texas and Louisiana?

Answer of Samuel Davenport. The neutral territory comprehended all the tract of country lying east of the Sabine, and west of the river Culeashue, bayou Kisachey, the branch of Red river, called Old river, from the Kisachey up to the mouth of bayou Don Manuel, southwest of bayou Don Manuel, lake Terre Noir, and Arroyo Hondo, and south of Red river, to the northwestern boundary of the State of Louisiana.

Answer of Jose M. Mora. I have no other knowledge of the neutral ground, as to its boundaries, but from the Rio Hondo to the Sabine river.

Answer of Gregorio Mora. In the year 1794 and 1795, I collected the tithes of all the inhabitants who lived, or who had stocks, west of the river Culeashue, of the bayou Kisachey, of the bayou Don Manuel and Rio Hondo, and south of Red river, which were at that time within the jurisdiction of Nacogdoches, and on the line of the province of Louisiana.

Did the Spanish authorities of Nacogdoches exercise jurisdiction over said scope of country?

Answer of Samuel Davenport. The inhabitants of the neutral territory were recognised as belonging to the jurisdiction of Nacogdoches, and the Spanish authorities considered their right of civil jurisdiction not taken away by the arrangement entered into between General Wilkinson and Governor Herrera, in the year eighteen hundred and six; yet it was seldom exercised or enforced.

It appears to be an historical fact, that the strip of country called the neutral territory was early disputed by the ancient governments of Texas and Louisiana, both alternately assuming and repelling jurisdiction over it; and, even after both provinces were united under the dominion of Spain, the dispute did not subside, but was kept alive and perpetuated by the jealousies of the local commandants. In this situation the United States acquired Louisiana, and the subject of controversy was not agitated until the convention between General Wilkinson and the Spanish commander, in 1806. A copy of this instrument could not be procured, but we were informed by John Cortes, a respectable merchant in Natchitoches, who acted as interpreter on that occasion, that nothing was therein decided as to limits; that both parties should withdraw their forces from the neutral ground; and that the question of sovereignty should remain subject to the amicable adjustment of the two superior governments.

To the fifth interrogatory, viz:

What is the nature of the soil within the late neutral territory—rich and productive, or poor and barren?

Answer of S. Davenport. The whole tract of country or land within the neutral territory is pine woods; of course a poor arid soil, with a few exceptions of small quantities to be found adjoining to and on creeks and bayous, and fit for nothing but raising of stock.

Answer of José Maria Mora. The soil of the neutral ground is mostly pine hills, and consequently very poor, and fit for nothing but the raising of stock, except some spots on the margin of water-courses, which can be cultivated.

Answer of José Flores and Gregorio Mora. Their answer is the same as that of José Maria Mora.

Answer of John Cortes. The quality of the lands in the neutral territory is generally "pero fertil."

To the sixth interrogatory, viz:

Are the public archives or records of the jurisdiction of Nacogdoches yet in that place? If not, what became of them, or how were they disposed of?

Answer of S. Davenport. The public archives and records of the jurisdiction of Nacogdoches are not at that place at present; they were removed and carried off by Don Jose Montero, in 1812, then commanding at Nacogdoches, when he abandoned that place with his troops

at the approach of Guthries and McGee, who were attempting to revolutionize the country; since which time I have never known where those records were deposited, and believe, from circumstances and facts to my knowledge, that the most part of them were destroyed at San Antonio, where said Montero carried them to.

Answer of Jose M. Mora. The public records of the jurisdiction of Nacogdoches do not exist in that place; and it is to my knowledge that, in 1812, when the commandant, Don Jose Montero, left Nacogdoches with his troops, he took away with him all the records and documents belonging to or concerning the inhabitants of the jurisdiction, and I have never known since what had been done with them.

Answer of John Cortes. The archives of Nacogdoches were carried off by the royalist authorities at the time of the invasion in 1812. I know that they were never brought back to Nacogdoches, but I am ignorant as to where they now are.

And on the further trial of this case, the 20th day of February, 1846, the counsel for petitioners offered in evidence, from the Am. State Papers, title public lands, the whole report of 1824; which is in the words and figures following, to wit: (Vol. 4, p. 2.)

18th Congress, 2d Session, No. 415.

Survey north and south of Red river. Communicated to the House of Representatives, December 27, 1824.

TREASURY DEPARTMENT, *December 24th*, 1824.

SIR: In obedience to a resolution of the House of Representatives of the 14th instant, requiring the Secretary of the Treasury to inform "the House of the causes which have retarded the surveying of the public lands north and south of Red river, whether the said surveys are progressing, at what time the said public lands will be ready for sale, and whether any further legislative measures are necessary," I have the honor to submit a report of the Commissioner of the General Land office, together with four papers, marked A, B, C, D, which contain all the information required by the resolution.

I have the honor to be,

Your most obedient servant,

WM. H. CRAWFORD.

Hon. HENRY CLAY, *Speaker House of Representatives.*

GENERAL LAND OFFICE,

Washington, December 17th, 1824.

SIR: In compliance with a resolution of the House of Representatives, dated the 14th of this month, in the following words: "Resolved, That the Secretary of the Treasury be directed to inform this House of the causes which have delayed the surveys of the public lands and private land claims in the district south and north of the Red river, in Louisiana, whether the said surveys are progressing, and if not, what are the reasons, at what time the said public lands will be in a state of readiness for sale, and if any further legislation be deemed necessary for

the bringing of said public lands into market," and which has been referred to this office, I have to state, that the great body of the lands lying in the districts north and south of Red river, in the State of Louisiana, consist of piney barrens and extensive prairies ; that the valuable lands are confined principally to the margins of water-courses, emptying into the Mississippi swamp, and the swamp itself. This latter description of lands, except where the water-courses approach the prairies, are alluvial lands, covered with cane and other growths, which make them very difficult to survey. Of the piney barrens and prairie lands, large quantities have been surveyed, and so small a portion of them has been sold, that it has been deemed proper to suspend for the present the surveying of this description of lands.

The lands adjacent to the water-courses being valuable, the private claims are confined almost exclusively to, and occupy a very great portion of them ; the only saleable lands, therefore, belong to the Government in these land districts, with very slight exceptions, and which it is at present desirable to bring into market, is that portion of this description of lands which is interspersed among, and free from, private claims.

The surveys of these lands cannot be completed, nor can any sale of them take place, until all the private claims are located and surveyed.

The causes which have retarded and arrested the surveying of the private claims are various. The following are, however, some of the most prominent.

The renewal and extension of the several acts for the final adjustment of land claims in these districts, and the revival of the fifth section of the act of 1811, relative to what is termed back or double concessions by the acts of 1820 and 1823, from the year 1804 until the present time, with a short interval, the several acts for the final adjustment of land claims have made it impracticable to close the township plats, within which there were private claims in the district south of the Red river, in Louisiana, and these causes only ceased to operate in the district north of the Red river in 1823. The period for entering back concessions expired only in August last. These causes, in themselves, satisfactorily account for the delay, and show the legal impediment to the completion of the township plats in which there were private claims, and the consequent impracticability of bringing into market the public lands lying within such townships. See paper marked A.

Although these causes satisfactorily account for the impracticability of bringing into market the public lands, interspersed among the private claims, yet that progress which the public had a right to expect in surveying the private and public lands thus situated has not been made, and which, even under existing difficulties, ought to have been made.

This, among other causes, may be attributable to the death of the surveyor, Col. Freeman, in 1823, and the dismissal of his successor last spring ; and, up to the present time, the progress of these surveys are arrested by attempts to locate fraudulent claims, and to make improper locations of claims that may perhaps have been properly recommended for confirmation.

It is believed that the reports of the land offices at New Orleans,

dated the 20th November, 1816, and 6th of January, 1821, and that of the register of the land office north of Red river, dated the 1st of January, 1821, include and recommend for confirmation many fraudulent claims, and claims not entitled to confirmation, and which claims were confirmed on their reports. Some of the claims contained in the report of the register at New Orleans have, I understand, been admitted to be fraudulent, and I refer to the enclosed papers, marked B, for the information in relation to some of the other cases alluded to. From information received at this office, there is reason to believe that many similar and equally unfounded claims have been filed with the register at Opelousas, whose report, as required by the act of 1820, has not yet been returned.

The experience, talents, and indefatigable industry of the present surveyor, Mr. Davis, afford good reason to believe, that the surveying of the public and private claims in the district south and north of Red river, in Louisiana, will progress with as much expedition as the difficulties inherent to this portion of his duties will permit; and it is believed that a large portion of the lands lying on the Mississippi and Red river, in the district north of that river, will be prepared for sale in the course of the ensuing year. Surveys for part of these lands have lately been returned to this office, and may be proclaimed for sale at any time that may be deemed expedient.

Although it would seem that the causes which have delayed the surveys of the public lands and private claims in the districts south and north of Red river, may be attributable to a certain extent to prolonged legislation, yet farther legislative provisions may be deemed necessary.

By an act passed on the 11th of May, 1820, entitled "an act supplementary to several acts for the adjustment of the land claims in the State of Louisiana," the register of the land office at Opelousas was required to report to the Secretary of the Treasury all the claims filed with him in pursuance of that act, with his opinion thereon, by the 1st day of January, 1821. Many claims under that act were filed with the register, but he omitted to make any report in relation to them while in office, and his successor could not legally make such report. A letter, however, a copy of which, marked C, is transmitted, was addressed to the present register from this office, requesting him to make the report, with a view to submit it to Congress. Should this report not be received in time to be acted upon this session, it will be necessary to make some legislative provision for the case.

The act of the 31st of April, 1806, provides for the appointment of two principal deputy surveyors, with a salary of $500 each, and certain fees of office, in the territory of Orleans; and the act of the 3d of March, 1819, provides for an additional principal deputy.

This organization of the surveying department in Louisiana was suggested with a view of accommodating the private claimants, and facilitating the surveying and patenting of their lands. If, however, we are to judge from results, it seems not to have been a happy one. A similar organization of the surveying department exists now in no other State; and in every other State or Territory where there have been

private claims, and they extend to all, there has been no such delay and difficulties incident to the surveying and patenting of the private claims, as have occurred in Louisiana.

Previous to my coming into office, no patent had been issued on any private confirmed claim in that State, and since I came into this office, notwithstanding my attention was early drawn to the subject, but two patents have been issued, and one of them was on a claim improperly recommended for confirmation, and improperly patented, it appearing, subsequent to the issuing of the patent, that it covered reserved public lands, occupied for public uses. This organization of the department has a tendency to divide responsibility, and to lessen that of the surveyor for the district, to whom alone this office can look for the due execution of all the surveying within his district. It is suggested, therefore, for the consideration of Congress, whether these offices ought or not to be abolished. So far as they are depositories of the surveys and field notes, they may occasionally afford accommodation to individuals. The paper, marked D, contains an extract of a letter from me to the surveyor, Mr. Davis, on this subject, with his answer.

GEORGE GRAHAM.

The SECRETARY of the Treasury.

Extract of a letter from the Commissioner of the General Land Office, to Levin Wailes, esq., surveyor south of the State of Tennessee, dated

GENERAL LAND OFFICE, 12*th September*, 1823.

The general object of my instructions to you has been to expedite, as far as practicable, the surveying of all that part of your district which is in any way connected with the surveying of private confirmed claims, and not to authorize, at present, the surveying of any townships unconnected with such claims, other than those which you had been instructed to survey previous to my communications. You are authorized, however, to contract for the surveying of any of the lands which you may deem it expedient to survey under my former instructions, on bayous, lakes, &c., and in conformity to the second section of the act of the 3d March, 1811.

A.

Extract of a letter from the Commissioner of the General Land Office, to George Davis, esq., surveyor general, Washington, Miss., dated 30th June, 1824.

In relation to the views of this office, as it respects the surveying of public lands, private claims and back concessions, in your surveying district, I must refer you to, and request your perusal of, the letters addressed by me to Mr. Wailes, of the following dates: 1823, July 18th, 27th; August 19th, 28th; September 8th, (circular); September 12th; November 12th, 17th; December 19th and 31st; 1824, January 10th, 12th, 30th; March 4th; April 1st. To no one of these letters has a direct answer been given, so far as I recollect, by Mr. Wailes.

The principal object of these communications, and it is one to which I must call your particular attention, was to hasten the completion of the surveys of the private claims and back concessions in Louisiana, and to connect those heretofore made with the township lines, where such have been, or are intended to be run, in order that the necessary returns may be made to this office, on which patents could be issued. In accomplishing this, all the residuary public lands adjacent to, and interspersed among, private claims, would be ascertained and prepared for sale. These surveys will include nearly all the good lands in every land district in the State of Louisiana which is at present desirable to bring into market, with the exception of the lands lying immediately on the Mississippi above Natchez, and extending to the northern boundary of the State, the surveying of which, it is presumed, is nearly if not quite completed; only two township plats, however, of these lands have been returned to this office. Until these objects are accomplished, the surveying of any other lands in this State of Louisiana should be suspended.

The several acts of Congress allowing further time for the adjudication of private claims in the district of St. Helena and Opelousas, will occasion some legal impediment to the immediate final completion of the township plats of those districts. Nevertheless, much progress may be made in surveying, and connecting with the township lines, the private claims which have been heretofore confirmed, and the back concessions in Opelousas.

To the completion of the several series of surveys in the southeastern district, and of the plats of those townships containing private claims in the district north of Red river, there exists no legal impediment; and every effort should be made by you to have the surveys in those districts completed, and the plats returned to this office with as little delay as possible.

You will take every possible precaution to guard against the unnecessary resurvey of the public lands, or private claims, which have heretofore been surveyed and paid for either by individuals or the public.

Copy of a letter from George Graham, esq., Commissioner of the General Land Office, to Samuel H. Harper, esq., register of the land office at New Orleans, Louisiana, dated

GENERAL LAND OFFICE, 19*th September*, 1823.

SIR: On reference to the reports made by yourself and the receiver, bearing date the 20th November, 1816, I find that the claims of Joseph Gabon and James Felice on the bayou Bœuf, for about one league front and forty arpens deep on each side of the bayou, and the claims of Joseph Talbo and John Toledo on the bayou Caillon, for similar quantities, must be considered as confirmed by the act of 1820. As these lands were not settled, and probably not surveyed when the lands which we have lately advertised for sale on those bayous were run out, it is possible that there may be some interferences.

This fact should be ascertained by the principal deputy surveyor previous to the sale, and, if there is an interference, those lots covered by the private claims should be withheld from sale, provided the private claims have been surveyed on the lands designated in the original order of survey; and upon this point the principal deputy surveyor should be perfectly satisfied.

If the whole, or any part, of the claims above mentioned have not been surveyed, and if the designation in the original order of survey of the places of location on the respective bayous is so vague as to produce any doubt in the mind of the principal deputy surveyor as to the proper point of location, he will in that case take care so to survey them as not to interfere with the lands surveyed and advertised for sale by [the] United States, and he will make a special report of the facts in the case to this office.

The private claims on the bayou Darbonne having been granted on account of settlement principally, I presume that there is no danger as to interference with them. It is possible, though I think not probable, that there may be some old grants on the bayou Grostete, which may interfere with the lands proclaimed for sale; this should be inquired into previous to the sale.

Can you give me any information on the subject of the claim of the Chotamache tribe of Indians on the bayous Plaquemine and Jaques? Do the Indians now occupy the land, or is it occupied by others? If so, under what title? The Indians, I presume, had no right either to lease or to sell the lands.

You will please furnish the principal deputy surveyor with a copy of this letter for his information and guidance on the points mentioned.

I am, with great respect, &c.,

GEORGE GRAHAM.

Extract of a letter from the Commissioner to S. H. Harper, esq., register, &c., New Orleans, dated

GENERAL LAND OFFICE, *October 12th*, 1823.

Having had occasion to refer to the claims of the Marquis de Lafayette, I find that you have by your report, dated the 20th November, 1816, recommended the confirmation of a claim filed by Cooley, for two thousand acres of land, which interferes materially with the lands *patented* to the Marquis, on the Mississippi, and adjacent to the bayou.

In your report of the case of Charles Grass, on which that of Cooley depends, you observe that the commissioners rejected this claim, and others of a similar nature, principally on the ground of abandonment, alleging that the Spanish Government would upon application have granted the same land to others, and in which opinion you concur.

I presume, therefore, that you had no knowledge of the grant to the Marquis at the time you reported in favor of the claim of E. Cooley; for, if the Spanish Government would have granted these lands on the application of an individual, it would seem the United States had the right to grant the land, particularly after the solemn decision of the com-

missioners, and that on the ex parte testimony of the claimant. I will thank you to furnish me with certified copies of all the papers filed in your office relative to the claim of E. Cooley.

GEORGE GRAHAM.

Extract of a letter from J. Wilson, esq., principal deputy surveyor, to George Graham, esq., commissioner of the General Land Office, dated

NEW ORLEANS, *March* 13, 1824.

In a letter directed to the register, under date 19th September, 1823, (a copy of which was furnished me,) in relation to the claims of James Gabon and Joseph Felice, on the bayou Bœuf, and J. Talbot and John Toledo on the bayou Caillon, I am directed to survey them in such manner as not to interfere with the lands surveyed and ordered for sale, provided the designation of the places of location is not pointed out in the original order of survey. As there are a great many claims similarly situated with those, (no place of location being designated,) I would beg leave to ask whether the same rule shall apply to them all, the claimants having in many instances selected the best lands among the lots already surveyed, and located themselves upon them. Should this be allowed, it will create much confusion, and leave fractional lots to be sold, besides a very great loss to the Government, if left in the power of the claimants to select lands wherever they please. I would beg the favor of a reply, addressed to me at Donaldsonville.

With great respect, I have the honor to be, sir, your obedient servant,

J. WILSON,
Principal Deputy Surveyor.

Extract of a letter from the Commissioner of the General Land Office, to John Wilson, esq., principal deputy surveyor, dated

DONALDSONVILLE, *Louisiana, April* 15, 1824.

The recommendations of the register and receiver in favor of the claims of Gabon, Felice, Talbot, and Toledo, are evidently founded on the principles established by the 1st section of the act of the 12th April, 1814.

That act requires that the warrant or order of survey either should have been located, or that it should contain, in itself, a *special location.* The rule, therefore, for you to follow, in relation to these, as well as other cases similarly situated, is to refuse to survey, unless satisfactory evidence is produced to show that the land required to be surveyed is the particular land designated in the warrant or order of survey. And the rule should be particularly attended to in cases where the land has been surveyed by this Government, as the Spanish Government never would have permitted a floating warrant to have been located on lands subsequent to the surveying of them by the Government, for any purpose whatsoever.

Yours, very respectfully,

GEORGE GRAHAM.

SURVEYOR'S OFFICE,
WASHINGTON, MISSISSIPPI, *October* 16, 1824.

SIR: In a letter from me to the Commissioner of the General Land Office, dated August 16th last, speaking of the surveys of private claims north of Red river, I took occasion to remark, that "these surveys are progressing slowly at present, under orders from Mr. Wailes, before I relieved him; that they should be executed at the expense of the claimants, on the ground, as I understand, that these claims being, in fact, *donations*, the evidence upon which they were confirmed having been false and fraudulent, the donation itself was sufficient loss to the Government, without the expense of surveying being superadded."

The Commissioner, in reply to this part of my letter, observes: "I do not understand the distinction taken by Mr. Wailes in relation to the claims north of Red river. If evidence on which any claim has been confirmed is false and fraudulent, it affects the validity of the claim, and not its classification; and, in all cases, where testimony is furnished to this office to show that a claim has been confirmed on 'false and fraudulent evidence,' patents will be withheld. I will thank you to call upon Mr. Wailes, and ascertain the grounds he has for believing that there are any claims which have been confirmed on such testimony."

Whether the information that gave rise to the remark in my letter to the Commissioner was derived directly from yourself or from Mr. Bramhall, chief clerk in this office, or from both, I do not now recollect; nor is it very important that I should, since, had the question of who should pay the surveying expenses been a doubtful one, which it does not now seem to be, the motive imputed to you, as having influenced your decision, does you, in my opinion, great honor.

The conversations I have heard in relation to the manner in which the confirmation of many or most of those claims have been obtained, as well in relation to the testimony offered to influence, in some instances, their location, are both shocking and astonishing.

I have chosen this mode of soliciting of you any information you can communicate on this subject, likely to be useful, in however small a degree, towards protecting the interests of the Government against a lawless combination of individuals.

I am, very respectfully, sir, your obedient servant,
G. DAVIS.

LEVIN WAILES, esq.

WASHINGTON, MISS., *October* 16, 1824.

SIR: Most of the information I have had on the subject of the claims referred to in your letter of this date, just received by Mr. Winston, was derived from Kenneth McCrummen, esq., to whom, as he is now here, I beg leave to refer you, and recommend your reducing to writing such information as Mr. McCrummen will afford you. I shall answer your letter more fully in a few days. I write this in a hurry, that you may call on Mr. McCrummen before his departure for Louisiana.

I am, very respectfully, your obedient servant,
LEVIN WAILES.

GEORGE DAVIS, esq., *Surveyor General.*

WASHINGTON, *Sunday Morning,*
October 17, 1824.

DEAR SIR: In a letter I yesterday wrote to Levin Wailes, esq., I made inquiry of him, at the desire of the Commissioner of the General Land Office, respecting certain supposed fraudulent practices in a particular district of Louisiana, by means of which public lands have been converted, or are converting, into private property, without any valuable consideration being given in exchange for them.

Mr. Wailes, in a hasty reply, promises to answer me more fully hereafter, and in the mean while refers me to you, as one from whom much useful information may be obtained.

As you are presumed to be intimate with Mr. Wailes, he will no doubt give you the perusal of my letter to him, as well as of his answer, by which means you will be better informed of the nature of my inquiries; and I solicit, and have the greatest confidence of obtaining from you, all the useful information you shall be able to furnish. I must beg of you to reduce it to writing, and leave nothing untold which you may suppose likely to be useful on the subject.

With great respect, your obedient servant,

G. DAVIS.

KENNETH MCCRUMMEN, esq.
Deputy Surveyor, present.

WASHINGTON, *October* 18*th*, 1824.

SIR: The private claims to which you refer, and of which, by your letter dated yesterday, you desire me to afford you any information in my power, I understand them to be those filed with and reported by the register of the land office north of Red river, in the State of Louisiana. The task you have imposed on me is an unpleasant one. Nevertheless, as an officer acting under the authority of the Government of the United States, I consider it my duty to withhold no information from you which can tend to detect any fraud practised, or intended to be practised, on the Government.

It will be proper that I should particularize some of the claims which are said to be derived from settlements which have been established by oral testimony. I begin with the claim of Richard Green, of one league square. I believe it will be found, by a recurrence to former statutes, under which the American Government provided for the adjustment of land claims in Louisiana, that a mere occupancy right could in no case exceed the quantity of two thousand acres; and this required an occupancy, as well as I can recollect, of ten years before the cession of Louisiana to the United States. If the occupancy commenced from a later date, a settlement right could not exceed one mile square, or 640 acres; no person could hold more than one such right, nor could he hold that if he held land under any other title from the Spanish Government. It is within my knowledge that this same Mr. Green, at an early date, filed his claim to a tract of land in the parish of Catahoula, and was confirmed to the extent of 640 acres by the

commissioners for adjusting such claims at Opelousas. This ought to have barred his claim to the tract he now claims; but if this had been a valid claim, is it not strange and inexplicable that he did not enter it when he entered the first? I shall, however, show the whole ground of this claim to the tract of a league square, as I have it from Green's own witness. Philip O'Neal, whose testimony was taken before the late Reuben T. Sacket, then a justice of the peace, has, I understand, been made to testify, that he, the said O'Neal, did, for some years before the change of government, say twenty-two or twenty-three years, occupy, inhabit, and cultivate the said land for the claimant, Richard Green. I do not pretend to state the testimony word for word; I only give what I understood to be the substance of it. Philip O'Neal assures me that his testimony has not been minuted by this justice of the peace as he gave it in; he has repeatedly said, to myself and others, that when a boy, about twenty years ago, perhaps about the time of the change of government, or a year or two before, he, said O'Neal, accompanied his father on a hunting excursion up the Rigolet, the watercourse on which Mr. Green claims this land, at that time an unsettled wilderness, and for the purpose of getting cypress bark to cover cabins at the place where his father then resided; that the getting this cypress bark was the only improvement which he or his father made on the place; that three or four years ago, Dr. Green came to him, O'Neal, and offered him $50 for the improvement so made; that he informed Dr. Green that he did not pretend to have any claim to the land, but Green insisting on giving him the fifty dollars, he agreed to let him have the claim, such as it was, and such as he has stated it to be; that a few months afterwards he was cited before T. T. Sacket to give testimony in the claim of Richard Green, and that, when on oath, he made the statement corresponding with the foregoing information, and no other.

Louis L. Huffman is another person who has obtained the confirmation of his claim, under the report of the register north of the Red river, for a tract of 640 acres of land. He had originally claimed a tract with ten arpens of front, with forty arpens in depth, say 400 arpens, equal to 338 acres, to which extent his claim was confirmed by the register and receiver at Opelousas. To obtain an enlargement of this tract, he has found it convenient to claim (on the same ground, in part) 640 acres, for which he has obtained confirmation. A reference to former acts of Congress will show that he ought to have been confined to his first claim, if, indeed, he was legally entitled to that.

The heirs of Benjamin Miller claim under the settlement of their father. One claim, lying in the parish of Catahoula, has already been confirmed to Benjamin Miller for 640 acres. This, by former acts of Congress, ought to bar the claim filed with the register at Ouachita for the benefit of his heirs.

Adam Huffman has also a claim favorably reported on by the register north of Red river. The father of the claimant, whose name was Adam, also, with some of his neighbors, erected cowpens on this land,

probably for the purpose of gentling their wild cattle; the son has found it convenient to call it a stock farm; and he has produced, as I suppose, such testimony as satisfied the register north of Red river that his claim was a valid one. On this ground there appears a small improvement, which I know to have been made only five years past, by some wood-cutters, who remained three or four months on the land, cutting and carrying away the public timber.

August O'Neal's claim is of so little value that the inhabitants neither care or say much about it; thinking the loss will not be great to the Government if they should be swindled out of it. There is no improvement on it, however, that appears to have been made longer ago than eight or ten years; perhaps long enough since to entitle him to the right of preference to purchase from the United States.

I have no better opinion of the claims said to have been founded on concessions from the Spanish Government, and filed with the register north of Red river, at Ouachita. It is possible, and barely possible, that there may be some few valid and honest claims among them; but it is my opinion, and that of the most respectable inhabitants of the parishes of Natchitoches and Rapides, that the far greater part of these documents are base counterfeits. It is true, I have seen none of those papers myself; but I have heard respectable persons, and good judges, who have seen many of them, speak publicly of them, not only as counterfeits, but very bungling counterfeits. Besides, I have inquired of the most ancient and respectable inhabitants of both these parishes, who assured me that they never before have so much as heard the names of any of the persons to whom those large and valuable tracts of land are said to have been granted by the Spanish Government.

I have, myself, been very generally acquainted in the parishes of Rapides, and Natchitoches, and Catahoula, for about 16 years. I have never heard the names of any of these grantees before, nor do I believe the names of any of them are to be found on any records of either of those parishes. In short, the whole thing is ridiculed and contemned, by every honest man in the northern district, as a base attempt to defraud the Government. It is a curious fact, that all those grants are, although purporting to have been made some thirty, or more, years ago, (or part,) are, for the most part, for the most valuable lands in the State, in situations which were totally unknown to any civilized man until long since the cession of Louisiana to the United States; and not until, by the running and marking the public lines, facilities were given by which the country could be examined.

If the act of Congress, confirming the claims under consideration, has not placed them on a footing beyond the control of the Government, I do not hesitate to say, that it is my belief that the Government would save a million of dollars, at least, by ordering all the documents of title, which were filed with either of the registers in that part of Louisiana called the Territory of Orleans, under the last acts granting indulgence to land claimants, to be transmitted to the seat of Government, and there

scrutinized and investigated by gentlemen well acquainted with such documents, and competent to judge of their authenticity.

I am, with great respect, sir, your very obedient servant,

KENNETH McCRUMMEN.

GEORGE DAVIS, esq.,
Surveyor General south of Tennessee.

SURVEYOR'S OFFICE, WASHINGTON, (MISS.,)
October 23, 1824.

SIR: The correspondence between myself and Messrs. Wailes and McCrummen, of which a transcript is herewith enclosed, in relation to the land claims confirmed by the second section of the act of Congress of the 28th February, 1823, has resulted from the request made in the closing part of your letter to me of the 11th ultimo; to which I have but a single additional remark to offer—that, if all that I daily hear upon the subject be not mere idle stories, it will require but a little further indulgence by Congress, to the persons for filing notices of claims, to wrest from the Government all the lands in that interesting district of Louisiana worth being surveyed.

I have the honor to be, with great respect, sir, your most obedient servant,

GEO. DAVIS.

GEORGE GRAHAM, esq.,
Commissioner of the General Land Office, Washington City.

P. S. No other letter has been received from Mr. Wailes.

Extract from a letter from George Davis, esq., surveyor, &c., dated

WASHINGTON, MISS., *October* 29, 1824.

SIR: I have been so beset for two or three days past by a land claimant, under the second section of the act of the 28th February, 1823, of the name of Bowie, that I have been able to think of scarcely any thing else. A deputy surveyor, Mr. Milo Johnson, had been surveying claims of this kind, and chiefly for this individual, slowly, for about a year previously to my arrival here, under orders from Mr. Wailes; and I found a considerable bundle of his papers in the office when I took possession of it; they had laid dormant ever since, until within a few days past.

The claimant is extremely anxious to obtain my approval of Johnson's locations, in order to facilitate the lands to squatters. When any of those squatters are found on good tracts of land, these locations are laid on them, and after the parties come to an understanding on the subject, the squatters are found ready to assist in the most iniquitous means of defrauding the Government, or so says report.

In one instance, and it was the first presented to my notice, the location is laid on a bayou, called in all the maps that I have seen, as well as by the present inhabitants of the vicinity, bayou Tensas; whereas his claim calls for bayou Mason, (in French Maçon) situated a considerable distance further from the Mississippi than the former, and both running nearly parallel to it.

B.

Extract of a letter from George Davis, esq., surveyor south of the State of Tennessee, dated Surveyor's office, Washington, Miss., November 1, 1824.

Sir: In your letter of general instructions, of the 30th of June last, you seem to suppose that all the good lands on the Mississippi, between Natchez and the north boundary of Louisiana, in that State, had been already surveyed. Whatever public land may still remain to be surveyed, the maps transmitted with my letter to the General Land Office, of the 22d ult., in addition to the two some time previously forwarded by Mr. Wailes, comprehend the whole that has yet been surveyed in that part of the north of Red river district.

Being about to enter into a contract with Mr. E. S. Ludlow to complete the survey of these lands, between the part heretofore surveyed by him, and the north boundary of the State of Louisiana, I transmit herewith a copy of a draft of that part of the work, the exterior lines of which have been heretofore surveyed and paid for by Mr. Wailes.

This draft is forwarded, for the double purpose of presenting a portion of the work upon which the accounts of Mr. Wailes have been founded, and of exhibiting a location recently attempted to be made on Lake Providence and bayou Tensas, of two private claims, the confirmation of which, by the 2d section of the act of February 28th, 1823, called for bayou Maçon, situated a considerable distance further from the Mississippi river than the former.

You will find these claims on the list, in the name of Juan Gonzales and Francisco Andante;* the real claimant is, however, named Bowie. I have declined approving the surveys on account chiefly of their mislocation, or of their being laid in a part of the country not warranted by the grant. I transmit the affidavits of two individuals, said to have been squatters on those lands; they were obtained by the claimant, in order to induce the surveyor to make the location. It is acknowledged, I believe, on all hands, that the bayou is still called Tensas. In relation to these locations, I shall only further remark, that it is pretty confidently believed by some, that the real bayou Maçon derived its name originally from a noted river pirate, named Mason, who had his haunts on it in the year 1804–'5, and who was killed by one of his men in order to secure the reward offered for his capture by the proclamation of Mr. Jefferson, while President of the United States. Happening to be in this village myself when the fellow came here to demand his reward, I can have no doubt of the time; and, were the fact established, that the etymology of the name of the bayou has been correctly ascertained, it would destroy the validity of the claim altogether, as the claims themselves look as far back for their origin as 1788 and 1789, respectively.

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*Nos. 23 and 31, first class.

C.

GENERAL LAND OFFICE, *September 7th*, 1824.

SIR: Your predecessor, Mr. Wailes, made no report to this office relative to the claims filed with him agreeably to the provision of the 2d section of the act supplementary to the several "acts for the adjustment of land claims in the State of Louisiana," passed the 11th May, 1820. As the surveying of the private claims, which have heretofore been confirmed in your district, cannot be so closed as to give to the claims their respective sectional numbers, until all the claims in each township shall have been finally acted upon, and much time will be lost, and the claimants generally, as well as the public, subjected to great inconvenience by delaying the returns until a special act of Congress can be procured which shall authorize you to make the report that was required by law of Mr. Wailes, I take the liberty of suggesting the propriety of your investigating and reporting on the claims which have been filed with Mr. Wailes, when register, within the period prescribed by the act above mentioned. Your report would be submitted to Congress, and I have no doubt would be acted upon by them in the same manner that any other report would be, which would be made under any act that might be passed at the next session, authorizing you to report on these claims.

In making your report, you will confine yourself to the provisions of the act which limits your jurisdiction to claims founded on Spanish grants, concessions, or orders of survey, and which shall have been filed with your predecessor previous to the 31st day of December, 1820.

These restrictions are equally applicable to the claims provided for by the 2d and 4th sections of the act.

As to the form of your report, and the classification and numbering of the claims, I would refer you to the report made by Mr. Wailes and Gerard, dated the 30th December, 1815, which affords the simplest form in which the substance of the evidence in each case may be embodied.

It is possible that Mr. Wailes may have neglected to file some of the claims which may have been presented to him previous to the 31st December, 1820, or the evidence of their having been filed may have been lost. In such cases you will make a special report, accompanied by the evidence, that the claim was filed within the period limited by law.

In addition to the fees for recording, specified in the act, a part of which I presume Mr. Wailes has received, a further sum of six hundred dollars is allowed to the register for making this report, which Mr. Wailes has not received, and which would be paid to you whenever Congress should act upon the report. I am, &c.

GEORGE GRAHAM.

To VALENTINE KING, ESQ.,
Register of the land office, Opelousas, La.

[REC. VIII & X, D. T., 1852.]—9

D.

Extract from a letter from the Commissioner of the General Land Office to George Davis, esq., dated August 27, 1824.

Should you find, on due investigation, that your principal deputy surveyors are not qualified, or are inattentive to their duties, you should remove them. I have great doubts whether that part of the organization of the surveying department has, in any manner, facilitated the surveying the private claims; measures should be taken by you to give more efficiency to this branch of the department, or it ought to be abolished.

Extract from a letter from George Davis, esq., surveyor of public lands, South Tennessee, to the commissioner of the General Land Office, dated 25th October, 1824.

Having nothing to conceal, I must beg permission to state, that the law does not, in effect, put the office of the principal deputies under the due control of this office, simply because the salary and legal fees, and perquisites of them, will not command the service of any man under fifty years of age, who possesses the necessary talents and industry to perform the duties of them, if their pecuniary circumstances be above those of absolute pauperism. This, sir, is an unpleasant, perhaps a dangerous truth; but my situation imposes upon me no duty more imperative than that of telling it; in doing it, I have no private views to subserve, no friend with whom I wish to fill a vacancy; on the contrary, I know of no proper person acquainted with the really arduous duties that would be required of him, who would be willing to accept of one of those appointments with an intention at the same time of performing them. This the present incumbents know; and hence it results that, if any substantial services are required of them, as an equivalent for their salaries, they are ready to resign.

And on the further trial of this case, February 20th, 1846, the counsel for petitioners read in evidence from State Papers, title public lands, vol. 4, page 60, No. 180, as follows, to wit:

180. Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, all of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, deceased, of the State of Pennsylvania, filed their notice, claiming a tract of land, being within the late neutral territory, lying east of the Sabine river, on the public road from Natchitoches to Gaines' ferry on said river, at a place called "La Nana," having for its centre the prairie which joins the bayou of said "La Nana," to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie, claimed by virtue of a grant approved and signed by Don Jose Maria Guadiana, commandant of the post of Nacogdoches, the 4th of August, 1798, in favor of said Edward Murphey, who, on the 3d of November, 1798, conveyed the same to the commercial partnership then existing between himself, (said Murphy,) Davenport, Smith, and Barr.

The claim is supported by authenticated documents, of which the following are translations.

Mr. Lieutenant Governor: Don Edward Murphy, of the vicinity of Nacogdoches, appears before you by petition, and saith, that from three to four years last past I have had, in the jurisdiction of Nacogdoches, now under your command, with the knowledge of your predecessors, the former commandants, at the place known by the name of Juan de Mora lake, kept cattle and other animals, for which, until this date, I have paid the duties of tenths; and finding said place scarce of cane range for the preservation and increase of said animals, I have recourse to you, praying for a grant for a tract of land at the place called "La Nana," situated on the east side of the river Sabine, about seven leagues from its margin, and on the road leading from the town to the post of Natchitoches; said tract of land, from its centre, which is in the prairie joining the bayou of the aforesaid "La Nana," and immediately on said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie, so that, in this space of land, I may have a sufficient range for my present and future stock.

E. MURPHY.

Nacogdoches, February 22d, 1798.

Pass this petition to the procurador, that he may leave in possession of the land the interested person, as described.

GUADIANA.

July 1, 1798.

The 1st of August, 1798, in compliance with the foregoing decree, I, Don Jose de Cayetano de Zepeda, syndic and procurador of this jurisdiction of our Lady of the Pillar of Nacogdoches, accompanied by my assisting witnesses, Juan Jose Medina and Jose Domingues, went to the place called "La Nana," in order to establish in said place of La Nana Don Edward Murphy, who is present, and give possession, in pursuance with the preceding order; and being at said place, after having inquired if there were adjacent neighbors, and being well assured the nearest was Mr. Charboneaux, distant about eight leagues from said place of La Nana, and finding no impediment, put Don Edward Murphy in possession of the vacant land prayed for in his aforesaid petition, with the extent and boundaries therein expressed; visited the limits and territory with the before named witnesses and said Edward Murphy; the two leagues by the said road of St. Antonio de Bexar westward, reaching to the Chupaderas, and other two leagues of land towards the east, which reaches by the said road to the bayou Tassan, with two leagues to the north, and other two leagues to the south; and taking him, the said Murphy, by the hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked about at pleasure on the said territory of La Nana, pulling up weeds, made holes in the ground, planted posts, cut down bushes,

took up clods of earth and threw them on the ground, and did many other things in token of the possession in which I had put him, in the name of his Majesty, of said land, with the boundaries and extension as prayed for; and in demonstration of the right which he already holds in said land, as the only proprietor, by virtue of this act of possession, and for further evidence of the right of sovereignty which he has forever acquired over said land of eight leagues, two towards each of the cardinal points, in the manner, place, and boundaries expressed in his aforesaid petition, with the servitudes, uses, customs, and privileges which he, the said Murphy, has, I gave the whole mentioned territory of "La Nana," which includes a square of eight leagues, the name of "San Pedro of the bayou of La Nana;" and the said Edward Murphy being and remaining in entire and peaceable possession, in conformity to law and right, of all the aforesaid land, as a proof and evidence of which I have signed this act of possession, with the aforesaid witnesses, at the place of St. Peter of the bayou of "La Nana," the same day, month, and year. JOSE CAYETANO DE ZEPEDA.

JUAN JOSE MEDINA,
JOSE DOMINGUES,
Assisting witnesses.

At the post of Nacogdoches, the 4th day of the month of August, 1798, I, Don Jose Maria Guadiana, 2d cornet of the company of Montclova, and military and civil commandant of said post, have ordered that, in virtue of the possession of land given to Don Edward Murphy as aforesaid, without any opposition, the original document be placed in the protocol of said post, to serve as evidence of the same, and that there be given to the interested person a certified copy as a title for the property. In testimony of which I have authorized this act, which I have signed with two assisting witnesses, with whom I have acted for want of a public notary, and on this common paper, for want of stamped. To all of which I give faith.

JOSE MARIA GUADIANA.

JOSE LOUIS DE LA BEGAR,
PEDRO LARA,
Of assistance.

This claim was entered and filed with the former board of commissioners, where it was supported by testimony that does not appear here. The whole, however, was reported by that board, with claims to land in the county of Natchitoches, under No. 46, and to that report we beg to refer.

Being of opinion the claim ought to be confirmed, we have classed it with claims of the "first class."

And on the further trial of this case, February 20th, 1846, the counsel for petitioners read in evidence, from State Papers, title public lands, vol. 4, page 61, No. 181, as follows, to wit:

181. Samuel Davenport. The heirs and representatives of Edward Murphy, deceased, of the parish of Natchitoches, the heirs and repre-

sentatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, of the State of Pennsylvania, filed their notice, claiming a tract of land lying within the late neutral territory, situated on the east margin of the Sabine river, at a place called "Las Ormegas," having such marks and boundaries as is represented in a plat of survey made by William M. Lester, deputy surveyor of the United States' lands, and containing six square leagues, equal to 207,360 acres, claimed by virtue of a concession signed by Bernardo Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jacinto Mora; which land said Mora, by act of sale, dated 22d of July, 1805, transferred to William Barr and Co., a firm composed of said William Barr, now deceased, Samuel Davenport, Edward Murphy, now deceased, and Luther Smith, now deceased. The claim is supported by an authentic copy of the original acts, of which the following are translations:

Mr. Lieutenant Governor: Jacinto Mora, inhabitant of this village of our Lady of the Pillar of Nacogdoches, with due respect appears by petition before you, and says that, on the east side of the river Sabine, at the place called "Las Ormegas," distant from the aforesaid village about twenty-five leagues, I have my stock of horses, and where it is my intention to establish a stock farm for the raising of mules, horses, horned cattle, sheep, and hogs, and likewise cultivate the soil; in virtue of which, I pray you will be pleased to grant me, for that purpose, a title of property for myself, my heirs, &c., six leagues square of land, at the above mentioned place of "Las Ormegas;" the principal front or western boundary to extend north and south six leagues, so that the centre of the said line will be opposite the Indian crossing place on said river Sabine; the north line to begin at the northern extremity of the said front line, on the east bank of said river, and extending six leagues east, forming with the front line a rectangle; the south line to commence at the southern extremity of the aforesaid front line, and extend six leagues east, forming, also, with the other, a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with the said river until it joins the extremity of the south line, so that the prairies and plains of the above Ormegas will be included in the square of the four fronts of six leagues in length each, formed by the expressed four lines. In consequence, I pray you will have the goodness to grant me the aforesaid six leagues square of land at said Ormegas, and in the manner prayed for, it being vacant, and no inhabitants near that such a grant can prejudice. And your petitioner, &c.

JACINTO MORA.

NACOGDOCHES, *November* 14, 1795.

NACOGDOCHES, 14*th November*, 1795.

The syndic procurer of this jurisdiction, Don José Cayetano de Zepeda, will establish the petitioner in the aforesaid place, and in the manner asked for, if vacant, and not prejudicial to any inhabitant pro-

prietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation for the more effectual confirmation of the title of property.

BERNARDO FERNANDEZ.

On the 2d day of December, 1795, I, Don José Cayetano de Zepeda, syndic procurer of this district of our Lady of the Pillar of Nacogdoches, in conformity to the foregoing decree, accompanied by the assisting witnesses, Don José de la Bega and Juliano Grande, went to the place called "Las Ormegas," situated about twenty-five leagues from said town of Nacogdoches, and on the east side of the Sabine river, in order to establish the said Jacinto Mora, then present, and give him possession in conformity to the foregoing order. In compliance with which, being on said premises, after having inquired if there were any inhabitants near in order to cite them to be present, and being assured that the nearest lived at least ten or twelve leagues off Las Ormegas, and that their possessions did not reach within three or four leagues of the boundaries pointed out by Jacinto Mora in his aforesaid petition, for which reason no injury could be sustained by the nearest neighbor from putting the said Jacinto Mora in possession of the vacant land he solicits, with all the extent and limits; I visited the boundaries and territory they embraced, with the assisting witnesses, and the said Jacinto Mora, and, taking him by the right hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked at pleasure on said territory of "Las Ormegas," pulled up weeds, made holes in the ground, planted posts, cut bushes, took up clods of earth and threw them on the ground, and did many other acts and things in proof of the possession I had given him, in the name of his Majesty, of the said land, with its boundary and extension, as prayed for by him. And, in further demonstration of the rights and sovereignty he holds in it as the only proprietor by virtue of this act of possession, and for the more abundant proof of the property which he has acquired in said land of six leagues square, in the manner, place, and boundaries as expressed in his petition, with all the uses, privileges, and appurtenances thereunto belonging, and which he holds in said territory of "Las Ormegas," forming a square of six leagues each front in length, I have named it Santa Maria Adelaida, that said tract of land may, in perpetuity, be called Santa Maria Adelaida de las Ormegas. And the said Jacinto Mora, being and remaining in entire and peaceable possession of all the aforesaid land according to law and right, I have, in testimony of which, signed this act of possession, with the aforesaid assisting witnesses, at this place of Santa Maria Adelaida, the day, month, and year before mentioned.

JOSE CAYETANO DE ZEPEDA.

JOSE LOUIS DE LA VEGA,
JULIANA GRANDE.

Don Bernardo Fernandez, lieutenant of cavalry, and lieutenant governor of the village of our Lady of the Pillar of Nacogdoches, and its

jurisdiction, confirms this title, in form and possession, in the name of his Majesty, (whom may God preserve,) to Jacinto Mora, for himself, his children, his heirs, and other representing his rights, in perpetuity; it appearing that, from the foregoing act of possession, given by the syndic of this jurisdiction, that said tract of land was vacant, and cannot prejudice his neighbors.

Given in the aforesaid village, the 15th day of December, 1795.

BERNARDO FERNANDEZ.

This copy is in conformity to and with the original record in the archives under my care, to which I refer, and from which I, Dn. Dionisio Vallé, lieutenant of cavalry, and military and civil commandant of this village and jurisdiction of Nacogdoches, had it copied, corrected, and compared. It is true and genuine; and at which act were present William Barr, Louis Roliquet, and Vincent del Rio.

In testimony of which, I, the aforesaid lieutenant of cavalry, have signed it, with two assisting witnesses, and with whom I proceeded, for want of a public notary, this 27th day of June, 1805; to all of which I give faith.

DIONISIO VALLE.

JOSE PINEDA,
MANUEL BUSTAMENTE,
Assisting witnesses.

Next follows a sale from Jacinto Mora to William Barr and Co. of the land above conceded to him, dated 22d of July, 1805, and passed in due form before the said lieutenant and commandant.

This claim is reported by the late board of commissioners, being No. 40 of the Natchitoches claims. By reference to that report, a great body of further testimony will be found sustaining the claimant's pretensions. We have no hesitation in saying we are of opinion this claim ought to be confirmed, and have, in the abstract, classed it with the "first class" of claims.

And on the further trial of this case, February 20th, 1846, the counsel for petitioners read in evidence from State Papers, title public lands, vol. 4, page 75, the tabular statement, as follows, to wit:

First class.

No.	Name of claimant, nature of title, and by whom issued.	Titles, when issued.	Titles, to whom issued.	Date of transfer, person transferring, and to whom.	Extent.	Quantity.
	Complete grants by lieutenant governor of Nacogdoches:					Acres. hds.
87	Joseph Valentine - -	Aug. 30, 1791 -	Claimant - -	- - - - -	1½ miles sq.	
108	Geo. Schamp & Pelag. Schamp	May 14, 1796 -	John Adley -	Jan. 21, 1821, from grantee to claimant - - -	½ lea. sq. -	5,760.
110	Emanuel Prudhomme - -	Title lost - -	Claimant - -	- - - - -	1 lea. sq.	
113	Legal reps. of Pierre Dolet -	Jan, 14, 1796 -	Claimant's ancestor	- - - - -	2 lea. sq.	
143	Heirs and reps. of Ed. Murphy	Oct. 18, 1791 -	Do do -	- - - - -	Special -	2,222.84
180	Sam'l Davenport, heirs and reps. of Ed. Murphy, dec'd, heirs and reps. of Luther Smith, dec'd, and heirs and reps. of W. Barr, dec'd - -	Aug. 4, 1798 -	Edward Murphy -	Nov. 3, 1798 do do	4 lea. sq.	
181	Same - - - -	Dec. 15, 1795 -	Jacinto Mora -	July 22, 1805 do do	6 lea. sq. -	207,360
200	Cezare Lafitt and Louis Lafitt -	Title lost - -	Claimants -	- - - - -	- - -	52,390
204	Widow and heirs of Gasp. Fiolle	Title lost - -	Claimant's ancestor	- - - - -	2 lea. sq.	
224	Heirs of Ed. Murphy, by commandant of Nacogdoches -	Title lost - -	John Quinilty -	Grantee to claimant's ancestor -	4 lea. sq.	

And further, on the said 20th day of February, 1846, the counsel for the petitioners offered in evidence two certain documents, marked No. 1 and 2, which documents were by the clerk marked (i), to be identified from the others; which documeuts are in the words and figures following, to wit:

Document No. 1. (Spanish.)

Document No. 2. (Spanish.)

STATE OF LOUISIANA,
Parish of Natchitoches, ss.

Pierre N. Gagnon, of said parish, being duly sworn, doth depose and say, that he is to the best of his knowledge, information, and belief, fifty-seven years of age; is a native born citizen of said parish, and has resided therein all his lifetime, except that from the year 1804 to 1813 he resided at Nacogdoches in Texas; that while so residing at Nacogdoches aforesaid, he became acquainted with Dionisio Valle, who was for a part of said period military and civil commandant at said post, and was such commandant, according to the best of this deponent's recollection and belief, in the year 1805. And this deponent further saith, that he, at the same time, became acquainted with Manuel Bustamente and Jose Pineda, all of whom resided at Nacogdoches aforesaid, during the aforesaid period.

That he, this deponent, had frequent business transactions with them, and often saw them write their names; and thus became familiar with their handwriting and signatures; and that the signatures of said Valle, Bustamente, and Pineda, affixed and subscribed to the ancient decree, hereto annexed, from Jacinto Mora to William Barr & Co., are in the opinion and belief of this deponent in the proper handwriting of said Valle, Bustamente, and Pineda, respectively, and are their true, proper, and genuine respective signatures.

And this deponent further saith, that said Valle, Bustamente, and Pineda are all now deceased, and have been for many years past, as this deponent has been informed and believes.

(Signed) PIERRE N. GAGNON.

Sworn to and subscribed, on this 29th day of April, 1845.
Before me,
(Signed) C. E. GRENEAU,
Parish judge.

STATE OF LOUISIANA,
Parish of Natchitoches, ss.

Be it remembered that, on this 29th day of April, 1845, personally came before me, Charles E. Greneaux, parish judge of the parish of Natchitoches aforesaid, the aforesaid Pierre N. Gagnon, and subscribed and made oath to the foregoing affidavit; and I being well acquainted

with the said Gagnon, and knowing him to be a man of truth and veracity, and giving full credit to the statements contained in his said affidavit, and believing it to be the best proof which can now be obtained of the due execution of said deed, do allow the same to be recorded.

Given under my hand and official seal, at Natchitoches, this 29th day of April, 1845.

[SEAL.] (Signed) C. E. GRENEAU,
Parish judge.

And further, on the said 20th of February, 1846, the counsel for the petitioners offered in evidence the testimony of Henry A. Bullard, taken in writing by N. R. Jennings, U. S. commissioner, which testimony is in the words and figures following, to wit:

United States district court, district Louisiana.

HENRY YATES & ARCHIBALD MCINTYRE
vs.
THE UNITED STATES.

CLERK'S OFFICE, *May* 3, 1845.

On this day, before me, N. R. Jennings, commissioner, appeared the plaintiffs in this suit, represented by their counsel, Baldwin, and the United States, represented by B. Peyton, United States district attorney, when the following witness, in behalf of plaintiffs, appeared to give his evidence in the above entitled case.

Henry A. Bullard, being duly sworn, deposeth and says, that his age is about 55 years; by profession a lawyer, and now judge of the supreme court of Louisiana; he arrived in this State and passed through in 1813, returned and settled in Louisiana, at Natchitoches, in the year 1814, and remained there until 1820, as a practitioner of the law. He then removed to Alexandria, and continued in the practice of the law until 1826; was appointed judge of that district, and continued until 1830; he then returned to the practice of the law, and continued until 1834, at which time witness was appointed to his present station. In 1813, he visited Texas, San Antoine, Nacogdoches, and other places through the country; he was in the Mexican service; before he arrived at Natchitoches, the royalists had evacuated Nacogdoches the year before, and it was in the possession of the republicans up to the year 1812. The Rio Hondo, 5 miles west of Natchitoches, was considered the eastern boundary line of Texas, and also the eastern boundary of the post of Nacogdoches. He speaks of these matters before 1812 as matters of history, not from his own personal knowledge, but since that period as matters of his own knowledge. Texas, prior to the year 1812, was under the jurisdiction of Spain, and belonged to the captain generalship of the internal provinces of New Spain, and Texas was one of the internal provinces of New Spain. Being asked if he was acquainted with the Las Ormigas and La Nana tracts, says that he is. That the Ormigas lies on the eastern bank of the Sabine, and the La Nana tract is about half-way between the Sabine and Rio Hondo, and both within the admitted

bounds of Texas, prior to the year 1812. During his stay in Texas, and his residence in Natchitoches, became somewhat acquainted with the manner of making grants and concessions of land in Texas; during his practice at Natchitoches, has often had grants of that description submitted to him in his professional capacity; those grants were made within that jurisdiction by the commandants of that jurisdiction, to wit, the post of Nacogdoches; the party who wished a grant presented a petition to the commandant of the post; this was referred by the commandant to the syndic procurador; the procurador put the petitioner into possession, if the land was vacant and the rights of no parties were interfered with. He made his report to the commandant; on his report, that he had put the party in possession with certain formalities, which were very precise, resembling the livery of seisin, the commandant made a final decree, confirming the grant in the name of the King. These papers together formed the protocol of the grant, and remained in the archives of the commandancy, from which a copy was taken, and given to the grantee as his evidence of title. Witness has never heard it doubted that the commandant of the post had the power to make such grants. That the grants of vacheries were always larger than those granted for the mere purpose of cultivation. Witness has been familiar with these grants for nearly thirty years. Witness himself brought suit once under the Ormigas grant for Davenport, at his request, for him and the other owners, against a person who had trespassed upon it. These grants were like all the other grants at that post, and in conformity with the usages in force there at the time; the grants were made according to the laws and usages of Spain as exercised at that post. Witness' knowledge does not extend beyond that post with regard to the land laws. These grants have always been considered genuine grants; and witness has always understood that the parties, Davenport and others, claiming under that title, have been always in possession, and kept vacheries there, on the Ormigas particularly.

Witness knew Guadiana intimately, who had been one of the commandants of that post before the revolution. Witness also knew Manuel Bustamente, Jose Pineda; they all were residents of Nacogdoches. Bustamente was the parish sexton. He does not know what Pineda's business was. Guadiana was one of the commandants, as above stated, as witness understood; and it was generally known that he had occupied that station. These persons are all dead, he believes. Witness knew Bernardo D'Antohn, John Cortes, Gaspard Bodin, Pedro Procella, and Samuel Davenport, all of whom are dead. Witness heard, when he was in Nacogdoches in 1813, that the archives had been taken away the year before, when the Spaniards evacuated that post. The archives were taken to San Antonio, as he understood. Witness has seen a small book, called the reglamento de trindos, containing the regulations and instructions, for granting lands, to the commandants of the post at the small frontier settlements; these grants, to wit, the La Nana and Ormigas, appear to have been in conformity with the instructions contained in these reglamentos; that the book was a small printed book

in the Spanish language. Saw it once in Texas, does not recollect where, and about thirty years ago. Witness is acquainted with the Spanish language. Witness has compared the exemplifications, certified to by the register of the land office at Opelousas, with the printed translation annexed to the petition.

These exemplifications are marked A A, B B. This translation conveys the sense of the original, and is substantially a good translation. Witness refers to that part of the exemplifications which is translated; but a part of each document does not appear to be translated, but the whole of each grant is translated; but that part of the document containing the Ormigas grant, purporting to be a sale from the grantee, Jacinto Mora, to William Barr & Co., does not appear to be translated.

Cross examination by B. Peyton, esq., United States district attorney.

Reserving all exceptions to the foregoing testimony, and especially that portion of it which refers to matters of hearsay, and mere matters of opinion, and which tends to prove the contents of printed or written documents, laws and regulations, which govern the Spanish authorities, propounds interrogatories, to which the following answers are given:

Witness states that he saw a paper in the hands of Davenport, which he believed to be an original copy of the Ormigas grant; this was about the year 1815 or 1816, and has seen the same paper in the possession of his family frequently since. This exemplification from the land office seemed to be a copy of it. The one of which witness speaks was looked upon as an authentic copy; witness has no personal knowledge of the manner in which this paper found its way into the land office. The name of Bustamente was affixed to the paper of which he speaks as a witness. Is acquainted with his signature; does not know the signature of any other party. The signature of Bustamente is genuine. The exemplification marked A A is a copy, as he supposes, of the one which he saw in the hands of Davenport. The copy which he saw in the hands of Davenport, and of his family, as before stated, and to which he above refers as authenticated by the signature of Bustamente, he saw a few days since in this city in the hands of the plaintiffs' counsel, and is confident that it is the same document which Mr. Davenport always kept in his muniment of title. Witness can't say whether or not that document was ever placed in the hands of the register of the land office at Opelousas, or, if so, how it got out of his possession. Witness has no knowledge of the boundaries of either of these tracts of land as before mentioned. Witness' recollection is very indistinct as to the book of which he has before spoken, containing the regulations and instructions to commandants with respect to land titles, as he gave very little attention to it, his attention being mainly directed to other matters, and looked into this matter purely from motives of curiosity; but is under the impression that these instructions proceeded from the captain general, who was stationed at Chihuahua, in the province of New Biscay; Mexico at this time was divided into two parts. The vice royalty and the captain generalship of the internal provinces, and the jurisdic-

tion of the vice royalty, did not extend into the internal provinces. The vice royal resided at the city of Mexico. Witness states that in general the regulations for granting lands were precise ; but with regard to the instructions contained in the book referred to he cannot speak with certainty, but is satisfied that the authority to the commandant for granting lands was derived from some higher authority, and the laws of Spain, as he supposes.

Witness states that the laws of the Indies were in force in all Spanish America before the revolution, as he thinks ; that the book which he saw in Texas left the impression upon his mind that it was intended to contain instructions, forms, and regulations, by which commandants of posts would be governed in granting lands as he stated before; witness cannot say whether that book is now extant.

Re-examination in chief resumed.

The general character of the land between the Red river and the Sabine, and within which these grants are situate, is very poor.

The further examination was continued until Monday next, the 5th instant.

MONDAY, *May* 5, 1845.

Examination on part of plaintiffs this day resumed.

Henry A. Bullard, witness, states that the document C C, annexed to the exemplification marked B B, is a correct translation of a part of the document B B not before translated, purporting to be a conveyance from Edward Murphy, of the La Nana tract, to William Barr, Samuel Davenport, Wm. Smith, and Edward Murphy ; and witness has also translated that part of document A A not before translated, and which purports to be a conveyance of the Ormigas tract by Jacinto Mora to William Barr & Co., and the same is a correct and true translation thereof, marked D D.

Witness being shown the document marked No. 1 and No. 2, recognises it as the same to which he notified in his cross examination as being in the hands of Davenport, and more recently seen by him in this city in the hands of the counsel of the plaintiff in this suit. Witness now recognises the signature of Bustamente as genuine ; he does not know any other signature attached to the documents. Witness is of opinion that the person who wrote the name of Pineda at the foot of the instrument wrote the whole document, although he does not know the handwriting of Pineda, or the person who wrote the document

The district attorney here reserves all legal exceptions to the last answer.

Witness recognises the commencement of a certificate, being three lines on the last page of document No. 2, as being the handwriting of Charles Slocomb, judge of the parish of Natchitoches, who has been dead for more than twenty years. Witness knew the judge well, is

familiar with his handwriting, and is positive as to this being his own writing.

Interrogatory. Whether from an inspection of the instrument marked No. 1, No. 2, from its ancient appearance, from the length of time he has been acquainted with it, from his knowledge of the genuineness of the signature of Bustamente, he has any doubt of the authenticity and genuineness of the document itself, as well the conveyance of Jacinto Mora to William Barr & Co., as the original grant?

To which question the district attorney objects as illegal, but consents that the answer thereto be put down, the legality of the testimony to be determined by the court upon hearing.

Witness answers. That from all the circumstances detailed in his deposition, particularly his knowledge of the signature of Bustamente, he entertains no doubt of its being a genuine document, and evidence of an original grant. Witness in translating the documents A A, B B, perceived that Jacinto Mora was described as being blind, from which circumstance he now remembers to have known him; he has been dead many years.

Witness thirty years ago heard of Louis Reliquet and Vincente Del Rio, and believes they are dead.

Witness states, that the policy of the Spanish Government was to encourage settlements of their own subjects about the frontier posts; and for this purpose it was necessary that the commandants, civil and military, of posts, should have the power of making grants and concessions of land. Witness states that it was never the usage of the Spanish Government to sell the lands, the public domain being always disposed of by gratuitous grants; except, perhaps, the intendant of Louisiana, after 1798, had the power of selling lands. Witness supposes that the authority of these commandants at the frontier posts, to wit, Nacogdoches and other places, to grant lands, was an exception to the law of the Indies, if by the law of the Indies such inhibition did exist. Witness states, that he does not know whether the grants emanating from these commandants were full or complete, or not, without requiring any other ratification ; they purported to be issued in the name of the King, but witness does not know whether they required any higher ratification ; the general impression was that they did not.

Cross examination.

Witness being asked if he had seen the papers relating to the La Nana grant, answers, that he has seen some papers in Spanish relating to the said grant, but did not know the handwriting of any of the names attached to them.

Witness has lately seen a paper, purporting to be a copy of the said grant, in the hands of plaintiffs' counsel, but had no signature to it which he could recognise as being genuine ; it appeared to be a very old paper. The paper referred to purports to be a copy of a grant made by Guadiana, whom witness knew intimately, as before stated,

and is acquainted with his handwriting. Witness refers only to one copy, which he saw in the hands of plaintiffs' counsel.

The only grants of which witness has a personal knowledge, which were made by the commandants of the post of Nacogdoches east of the Sabine, are the two referred to above in his testimony, except a permission given to the heirs of Marly, by Hel. Y. Barbo, commandant, to settle at a place called Bermudez, within seventeen miles of the town of Natchitoches, farther east than either of the said grants, which now belongs to witness, and confirmed by the United States as a settlement right, not as a grant; did not purport to be a grant, but merely a permission to settle. This permission was given in 1791, and the settlement under it continued for more than twenty years, as appeared from the report of the commissioners. It was recommended by the commissioners, and confirmed by the United States for 640 acres, as a settlement right; and the three foregoing cases are all of which the titles have come under witness's knowledge. He has heard of several others, but has no knowledge of them, never having seen the papers.

Witness thinks that it was in the year 1806, when Gen'l Wilkinson compelled the Spaniards, under Don Lionond Herera, to retire to the western bank of the Sabine. They entered then into a convention with him, that the territory between the Sabine and Rio Hondo should remain neutral, but which convention was never ratified by the Government of the United States, to the best of witness's recollection. Things remained in this situation, until Louisiana came into the Union with the Sabine as its western boundary. After General Wilkinson drove off the military force, some of the Spanish citizens remained there, and their descendants are there to this day. The Spanish authorities spoken of were the military, and not the civil.

Re-examination in chief resumed.

Witness states, that as late [as] 1811 or '12, a man by the name of De Soto continued to act as a sort of commandant or adviser of the Spanish inhabitants on the eastern side of the Sabine, within the neutral territory above spoken of.

Witness states, that no point in history is better settled than the line between the post of Nacogdoches and that of Natchitoches, was the Rio Hondo up to 1806, and this was a conventional line established by the commandants between the two posts, when both belonged to Spain

Examination resumed May 6th, 1845, before me,

N. R. JENNINGS,
Commissioner.

HENRY A. BULLARD, *witness.*

Continuation of re-examination in chief.

Witness explains that part of his testimony given yesterday, wherein he says, "that the only grants of which he has a personal knowledge, which were made by the commandants of the post at Nacogdoches east

of the Sabine, are the two referred to in his testimony above," by stating that he referred entirely to his knowledge of grants were the eastern side of the Sabine, but that he knows of many others of the same character, the same form, emanating from the commandant of the post at Nacogdoches, on the western side of the Sabine.

(Signed) H. A. BULLARD.

Sworn to and subscribed.

The witness having affixed his signature to the above testimony this day, May 6, 1845, before me, the examination was here closed.

(Signed) N. R. JENNINGS,
Commissioner.

And further, on the said 20th of February, 1846, the counsel for the petitioners offered in evidence the testimony of Pierre Gagnon, taken in writing by N. R. Jennings, U. S. commissioner, which testimony is in the words and figures following, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES.

Examination of witnesses, on behalf of plaintiffs, resumed this day, February 11, 1846.

Pierre Gagnon, being duly sworn, deposes, tha the is a native of the parish of Natchitoches, and still resides there, and by business a planter. States that he resided in Nacogdoches, Texas, from 1804, to 1813; when residing there, he was acquainted with Dyonisio Valle, and that he was military and civil commandant of the post of Nacogdoches in 1805. That he has seen him write and sign his name, and that the signature affixed to document No. 1 and 2, filed on the 5th of May, 1845, in this court, is the true and proper signature of said Valle; that he was also well acquainted with Manuel Bustamente and Jose Pineda; that they acted as private secretaries to the different commandants of the post; that he was very well acquainted with their handwriting; has seen them write frequently, and after examining the signatures of said Bustamente and Pineda, attached to document marked No. 1 and 2, above referred to, recognises them to be their true and genuine signatures. Witness has heard that all the above named persons are dead; iu the year 1810, Gaudiana was the civil and military commandant at the post of Nacogdoches. He had occupied that station some time before the year 1805. In the year 1810, Bustamenta and Pineda also resided there. Witnes knew Governor Salcedo perfectly well; he was governor of the internal provinces in 1810, and resided at San Antonio y Beyar. Witness also knew Marcel de Soto very well; he was an alcade, and resided at Bazin Pierre, the east of the Sabine river, fifteen or twenty miles, and in what was termed the Neutral territory; he resided and exercised the office of alcade subordinate to the commandancy

at Nacogdoches, until the year 1812, or about the period of the change of government.

Witness knows Henry Jones, of Natchitoches, and is acquainted with his handwriting and signature; and being shown the document filed on the 11th February, 1846, marked F F, recognises the signature thereto to be the true signature of said Jones; that on the 2d day of May, 1833, he expressed on the document he was the sheriff and collector of the taxes for the parish of Natchitoches.

Signed PIERRE N. GAGNON.

Cross examination by the district attorney.

Memorandum left to the commissioner by the district attorney of the interrogatories to be propounded to the witness, to wit:

In what year did Marcel de Soto reside on the east of the Sabine? In what year, state particularly, did he fill the office of alcade? How does the witness know that De Soto was the alcade? When was the part of the country in which De Soto lived first called the Neutral territory?

1. Marcel de Soto resided on the east of the Sabine from the year 1804 to the year 1812.

2. States that he filled the office of alcade all the time from the year 1804 to 1812.

3. He knows that De Soto was the alcade only by general reputation.

4. In the year 1806, the part of the country in which De Soto lived was first called the Neutral territory.

Signed, PIERRE N. GAGNON.

The witness having signed the above depositions in my presence, the further taking of evidence was closed for this day.

February 11, 1846.

Signed, N. R JENNINGS, *Comm'r.*

And further, on this 20th day of February, 1846, the counsel for the petitioners offered in evidence a certain document as referred to in the testimony of Pierre Gagnon, which document was marked F F, and is in the words and figures following, to wit:

Succession of Smith, Barr, Murphy, and Davenport,

To the collector of taxes for the parish of Natchitoches, DR.

To State tax, year 1830 - - - - - - - -	$1 26
To parish tax, year 1830 - - - - - - - -	1 26
To State tax, year 1831 - - - - - - - -	6 00
To parish tax, year 1831 - - - - - - - -	3 00

To State tax, year 1832 - - - - - - - -	1 38
To parish tax, year 1832 - - - - - - - -	1 38
	$14 28

1833, 2d May. Received payment of Yates & McIntyre.
Signed, HENRY JONES,
Sheriff and collector of taxes in and for the parish of Natchitoches.

And further, on the said 20th day of February, 1846, the following entry was made on the minutes, to wit:

FRIDAY, *February* 20, 1846.

YATES & MCINTYRE
vs.
THE UNITED STATES.

Present, the honorable T. H. McCaleb.

This cause being called for trial, Messrs. Peyton and Baldwin appeared for petitioners, and S. W. Downs for respondents. The counsel for petitioners offered and read several documents in evidence; after which the cause was continued till to-morrow at 10 o'clock, a. m.

The court then adjourned.

And on the 21st day of February, 1846, a notice was issued directing the district attorney to bring into court certain original document, which notice is in the words and figures following, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES.

District court of the United States, to Solomon W. Downs, esq., district attorney of the United States.

SIR: You are hereby required to produce the original Spanish grants which are particularly described in the plaintiffs' petition, or secondary evidence of the same will be offered in evidence by the plaintiffs on the trial of this cause.

(Signed) PEYTON & SMITH,
Attorneys of plaintiffs.

Service acknowledged.
(Signed) S. W. DOWNS,
Feb'y 21, 1846. *U. S. attorney.*

And further, on the said 21st day of February, 1846, an affidavit made by Harvey Baldwin, to which is annexed a certain letter, addressed to the said Baldwin, was offered in evidence and filed, to wit:

STATE OF LOUISIANA,
City of New Orleans, ss.
United States district court, district of Louisiana:

HENRY YATES and Archibald McIntyre
vs.
THE UNITED STATES.

Harvey Baldwin, of Syracuse, in the State of New York, being duly sworn, saith:

That he is the counsel for the plaintiffs in the above entitled suit, and their attorney in fact, and that he has an interest in the premises in question; and this deponent further saith, that he has, as such counsel and attorney, and in virtue of such interest, the sole control and management thereof, and has had such control and management since the 28th day of October, in the year of 1840, under a power of attorney irrevocable; that at the time of taking said control, management, and interest of the premises, the title to which is involved in the above entitled suit, he received from the aforesaid plaintiffs all the documents, papers, and evidences of title in their possession relating to the same, as he was informed at that time by said plaintiffs, and verily believes to be true; and this deponent has no knowledge, information, or belief, that said plaintiffs have ever since received any other or further evidence of title relating to said lands, than those delivered to him as aforesaid.

And this deponent further saith, that among the papers so delivered to this deponent as aforesaid, there were none relating to the original titles or grants, except a few numbers of printed translations, one of which is affixed to the petition filed herein.

And this deponent further saith, that he has ever since been making inquiries, and a part of the time most diligently engaged in making searches for the original title of said two tracts of land, known as the La Nana and Las Ormigas tracts, and as yet has been unable to find the same, except as hereinafter stated.

And this deponent further saith, that within the last eighteen months he has examined, or caused to be examined, every place where such said original titles or grants could reasonably be supposed to have been found. That in making said searches and inquiries he first applied to James Taylor, esquire, and Boyce, esquire, of Natchitoches, in the State of Louisiana, whom this deponent had been informed had been employed as attorneys, by some of the heirs, or legal representatives residing at that place, of some of the original owners of said tracts of land, and that this deponent found in the possession of one of them, but which this deponent does not now recollect, a bundle of papers relating to said two tracts or grants of lands, and that among said papers was the Spanish copy or grant of the Las Ormigas tract, certified to by Dionisio Valle, filed in this cause, and marked as exhibit No. 1 and No. 2, and that then, nor thereafter, was any similar paper found relating to said La Nana tract; and this deponent was informed, and be-

lieves, that no other papers were in possession of said Taylor or Boyce, relating to said titles or grants of land.

And this deponent further saith, that he made a personal and very laborious search in the office, and among the papers and records of parish judge of the parish of Natchitoches aforesaid.

And this deponent further saith, that he next made application, on inquiry, for said original grants, at the office of register and receiver, at Natchitoches aforesaid, for said original titles or grants.

This deponent further saith, that he next made application and inquiry for said original grants or titles at the office of the clerk of probates, in and for said parish of Natchitoches, at none of which offices were, or could [the] same be found, as this deponent was informed, and verily believes to be true.

This deponent further saith, that he subsequently inquired for said grants or titles at the office of notary public, at the town of Natchitoches aforesaid, and was informed by said notary public, after making search for same, that said titles or grants, nor the records thereof, were to be found in his office. And this deponent further saith, that he also made inquiry of Chas. H. Bullard, esquire, of Natchitoches aforesaid, whom this deponent had been informed had been employed as attorney by the heirs of said Davenport, and also by said plaintiffs, in relation to said grants.

And this deponent further saith, that he also made application to Major Derussy, of Grand Ecore, in said parish of Natchitoches, and whom this deponent has [been] informed, had married and was the husband of the daughter of said Davenport, and in possession of said Davenport's papers.

This deponent further saith, that he subsequently made application and inquiry of one Tozen, living on the plantation and in the house originally belonging to said Edward Murphy, deceased, and in which he died; said Tozen being one of the heirs at law and executor of said Murphy, and in charge of said Murphy's papers, as this deponent was informed and verily believes. And this deponent further saith, that he subsequently made application and inquiry for said original grants or titles to the register at Opelousas, at none of which places were said original grants or titles found by this deponent; and this deponent was informed by said Bullard, Derussy, Tosen, and register of Opelousas aforesaid, [that they,] were not in their possession; and which information this deponent verily believes to be true.

And this deponent further saith, that from none of the persons and at none of the places where he made inquiries for said grants could he get any satisfactory information relating to the existence of the same.

And this deponent further saith, that Samuel Smith, the immediate grantor of said plaintiffs, died at Natchitoches some two or three years since, but that previous to his death this deponent had several conversations with him in relation to said original grants or titles, and that said Smith always told this deponent that he had never since and did not

know where they were, which information this deponent verily believes to be true.

This deponent further saith, that while at Natchitoches aforesaid he made inquiry for the papers of said William Barr and Luther Smith, but could not learn who possessed them, if any *any* existed, or get any clue to them whatever.

This deponent further saith, that from an examination of the papers in this matter, and from what he has been told by aged men who were acquainted with all the members of the firm of William Barr & Co., he is satisfied that said Samuel Davenport was the principal man in said firm, and is of the opinion that the papers belonging to said firm were in his custody, and kept by him, and that if said original grants or titles were held by any of said firm, they were by said Davenport; and not being found in the possession of said Davenport's heirs or legal representatives as aforesaid, this deponent is of the opinion and belief that said grants or titles were not possessed by any member of said firm at the time of their respective death, except the one relating to the Ormigas as aforesaid, or, if so, that same have since been lost.

And this deponent further saith, that he has twice made application for said grants since the commencement of this suit to the Commissioner of the General Land Office in the city of Washington, and on both occasions has been informed that they were not in that office or elsewhere within the knowledge of that department, and which information this deponent verily believes to be true.

And this deponent further saith, that said original grants or titles, except the one relating to the Ormigas tract as aforesaid, and on file in this suit, is not in this deponent's possession, power, or custody, nor are the same in the possession, power, or custody of said plaintiffs, or either of them, or of any other party interested, or of any other person within the limits of the United States, to the knowledge, information, or belief of this deponent, nor does this deponent know, if the same exist, where they are to be found; and this deponent is of the opinion, from the testimony which he has taken in said cause, and from all that he has heard relating to same, that said original titles were carried off with the rest of the public records from Nacogdoches in 1812, and have been either lost or destroyed since that period.

And this deponent further saith, that despairing of finding said grants in the State of Louisiana, or other where in the United States, he did some time last spring take out two commissions in said cause to be executed in Texas, where this deponent, from some information he had received, had reason to believe some witnesses could be found who could give information and testimony in regard to said grants, and this deponent went to Texas for the purpose of executing said commission.

And this deponent further saith, that being disappointed in this respect he abandoned the idea of executing said commissions; after which this deponent applied to General Baber, a distinguished land lawyer of Houston, in Texas aforesaid, who referred this deponent to a book entitled "An abstract of the original titles of record in the General Land

Office," printed in accordance with a resolution of the House of Representatives, passed the twenty-fourth of May, eighteen hundred and thirty-eight, and printed at Houston, in Texas aforesaid; on finding of which this deponent, in a chapter thereof, entitled a list of titles issued by different commissioners and alcades at Nacogdoches, from 1791 to 1835, found an abstract or reference to said two grants as then being and remaining in the general land office at Austin, in the republic of Texas aforesaid.

And the deponent further saith, that he did thereupon commence preparations for going personally to Austin aforesaid, for the purpose of procuring said grants or evidences thereof, but the weather being excessively warm, this deponent while so engaged was taken ill, and constrained to abandon the undertaking; whereupon this deponent employed an agent, and sent him to Austin for that purpose, with instructions to procure, if possible, the original titles on file in said office, and if he could not, then to procure exemplifications of the same; in which instructions and request the then Secretary of State, Mr. Allen, then being at Houston, united, with this deponent, assigning, as a reason why said commissioner should deliver said original titles to said agent, that the lands to which they referred lay and were situate in the United States and not in Texas.

And this deponent further saith that said agent, after an absence of some twelve or fourteen days, returned bringing with him exemplification of said titles herewith exhibited, and a letter from said commissioner declining to deliver said titles on file in his office, assigning as a reason that he was under heavy bonds for the safe keeping of same, and could not therefore surrender them without a special act of Congress for that purpose, which letter is hereto annexed.

And this deponent further saith, that said exemplifications not being properly authenticated, were afterwards returned to said commissioner of the general land office of Texas aforesaid for that purpose, and having been since corrected and duly authenticated, have been since returned to this deponent; and which exemplifications, so corrected as aforesaid, are herewith exhibited as aforesaid.

And further this deponent saith [not.]

(Signed,) HARVEY BALDWIN.

Subscribed and sworn before me, this 21st day of February, 1846.

(Signed,) L. E. SIMONDS, *D'y clerk.*

GENERAL LAND OFFICE,
Austin, May 28th, 1845.

HARVEY BALDWIN, esq.

SIR: Your letter of the 20th was handed to me on the 26th inst. by Mr. Thomas. I have delivered to that gentleman certified copies of the titles to the lands granted to Jacinto Mora and Edward Murphy.

You are no doubt well aware that I am bound in a heavy penalty for the safe keeping of the archives of this office, and consequently would

subject myself to the risk of being mulcted in that penalty the moment I should part with any portion of them; therefore, I do not feel myself authorized to place the titles you desire beyond my control, except by the special direction of Congress.

From the vagueness of the designation of the land granted to Jacinto Mora, which you can yourself perceive by reading the field notes contained in the titles, I do not feel prepared to believe that it is beyond doubt in the U. S., but I am fully satisfied that the other tract is in the U. S.

Owing to the great amount of business requiring the attention of a Spanish clerk, your messenger has unavoidably been detained two days to obtain the said copies. You are also informed that they were prepared by him out of office; he was in his own time, for which he has made a charge, the public business being in no way connected with the matter.

I am, respectfully, your obedient servant,

(Signed,) THOS. WM. WARD.

And further, on this 21st day of February, 1846, the counsel for the petitioners offered in evidence the testimony of Benjamin Field, as taken in writing by N. R. Jennings, U. S. commissioner, which testimony is in the words and figures following, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES.

CLERK'S OFFICE, *May* 13, 1845.

In this case the counsel for the plaintiffs appear for the purpose of taking the deposition of a certain witness in their behalf. The district attorney of the U. States not appearing, no notice having been served upon him to appear at ½ past 7 o'clock, p. m., this day.

Benjamin Fields, witness for plaintiffs, being duly sworn, states that he is forty-three years of age; that his residence is in Brazoria county, Texas; that he is a planter, and has been engaged in merchandise. In 1825 he first went to Texas, and went backwards and forwards till 1837, when he became a citizen of Texas. During his residence in Texas he has dealt considerably in land claims, both in buying and selling. In 1829 witness went to Nacogdoches with Robert Logan, who both understood and read the Spanish language. Witness went there to hunt up old Spanish grants. The old Spanish archives, it was said, were taken away about the year 1812. They searched in the alcade's office at that place, and understood that as being the only place where papers of that description could be found or kept. They were searching for old grants and surveys lying east of the Sabine, between that and Red river, and they could find none located in that section. There was one book containing surveys of small tracts of land lying west of Nacogdoches about the Trinity, except one tract called the Quirk tract, lying east of Nacogdoches and west of the Sabine river,

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And the deponent further saith, that he did thereupon commence preparations for going personally to Austin aforesaid, for the purpose of procuring said grants or evidences thereof, but the weather being excessively warm, this deponent while so engaged was taken ill, and constrained to abandon the undertaking; whereupon this deponent employed an agent, and sent him to Austin for that purpose, with instructions to procure, if possible, the original titles on file in said office, and if he could not, then to procure exemplifications of the same; in which instructions and request the then Secretary of State, Mr. Allen, then being at Houston, united, with this deponent, assigning, as a reason why said commissioner should deliver said original titles to said agent, that the lands to which they referred lay and were situate in the United States and not in Texas.

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And further this deponent saith [not.]

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Benjamin Fields, witness for plaintiffs, being duly sworn, states that he is forty-three years of age; that his residence is in Brazoria county, Texas; that he is a planter, and has been engaged in merchandise. In 1825 he first went to Texas, and went backwards and forwards till 1837, when he became a citizen of Texas. During his residence in Texas he has dealt considerably in land claims, both in buying and selling. In 1829 witness went to Nacogdoches with Robert Logan, who both understood and read the Spanish language. Witness went there to hunt up old Spanish grants. The old Spanish archives, it was said, were taken away about the year 1812. They searched in the alcade's office at that place, and understood that as being the only place where papers of that description could be found or kept. They were searching for old grants and surveys lying east of the Sabine, between that and Red river, and they could find none located in that section. There was one book containing surveys of small tracts of land lying west of Nacogdoches about the Trinity, except one tract called the Quirk tract, lying east of Nacogdoches and west of the Sabine river,

about equidistant between Nacogdoches and the river. Witness made a very careful examination; the search was a thorough one; and witness, Logan, the alcade, and Radford Berry, were engaged in it for five or six days. Many inquiries were made of the old Spanish settlers, who informed them that the old Spanish archives and records of that post were carried to San Antonio about the time of the invasion in the year 1812. Witness went from Nacogdoches to San Antonio in search of the said archives and records; he could find nothing of them at San Antonio; and John Dorr, formerly an alcade in Texas, informed him that the said records were taken off to Mexico, or destroyed at an early period.

Witness returned to San Antonio in the fall of 1842, when another search was made by him and Goley in all the places were such records were likely to be found. Goley, his christian name John, spoke the French and Spanish, and he was therefore employed by witness to assist him in making search; nothing could be found there relating to the land titles at the post of Nacogdoches. Witness understood and believed that the archives and records were carried to the interior of Mexico, if they were not destroyed.

May 15th, 1835.

The defendants, represented by the district attorney, appeared this day, and cross examined the witness.

Before commencing his cross examination the district attorney specially reserves all legal objections and exceptions to the above testimony.

When engaged in the search alluded to in his examination in chief, witness had no reference whatever to the titles or grants in controversy in this suit, to wit, the Las Ormigas and the La Nana tracts; witness searched in the alcade's office at Nacogdoches, of which Radford Berry had the control; witness does not know the plaintiffs in this suit. In 1842 witness was in search of a Spanish grant between the Sabine and Red rivers, granted to Benjamin R. Milam, in the year 1824, by the Mexican government at Santilia, the capital of three provinces, to wit, Carahiuila, Texas; witness states that he has no interest in any grants between the Sabine and the Rio Hondo, except the one first spoken of.

Witness here states that the grants with which he is acquainted were grants from the government of Mexico; witness refers to the grants between the Sabine and the Red river. The form of these grants was an order from the Mexican government in the shape of a certificate to the commandant or the alcade to issue an order of survey, which survey was made and returned to the grantee, and the requisitions complied with, the title was confirmed by the government. This was the form as granted to Milam. Witness has seen no other grants, nor examined any other. The Milam grant was returned to Mexican government at Santilia in the year 1829, 22d of December, and it was confirmed on that day.

The counsel for the plaintiffs here objects to the above evidence from the words "grants from the government of Mexico."

Witness states that, in his searches referred to in his principal examin-

ation, he saw no grants made by the commandant, except the one referred to, and some others referred to in the book, of which he has no recollection.

The Quirk claim witness states was confirmed; witness being asked, if, when about to purchase a grant, he would consider a grant made by the commandant, without being subsequently confirmed by the Mexican government, a sufficient title or grant? Answers, that he would not; witness' occupation in Texas has been such as to "induce him to" investigate the titles *and* to grants; witness states that he understands that the old boundary line never extended beyond the Sabine, or east of the Sabine river, as high as up the old San Antonio road; it is about 55 miles, or something about that, where the San Antonio road crosses from Nacogdoches. In confirmation of the Quirk grant, witness means confirmed by the government of Mexico. The counsel for the plaintiffs here objects to all the evidence, from the objection as stated above to the close of the cross examination, on the ground that the said evidence was not called up by the principal examination, and on the ground of irrelevancy; and that so far as witness speaks of grants or confirmation of title, it is not competent for him to give parol evidence of the same, without the production of the titles themselves.

Examination in chief resumed.

States that the Milam grant "is above Shreveport, opposite to Fulton. Mexico, witness was told, commenced her revolution against Spain in the year 1811 or 1812. Does not know how long that revolution continued. Does not know when Spain acknowledged the independence of Mexico. Does not know whether Mexico was in a state of revolt against Spain at the time when the Milam title for the land was confirmed. Before 1829, Mexico had formed her own independent government, and established her own laws, which were prevailing in Texas.

Witness, when he speaks of the confirmation of titles, grants issued by the Mexican authority, refers to the Mexican government; witness, prior to 1825, knew nothing of the boundaries of Texas, its customs, nor its usages, nor did he know any thing of the boundary between the post of Nacogdoches and Natchitoches.

Witness being asked whether, in speaking of the eastern boundary of Texas, he does not refer to the boundary as established by treaty between Spain and the United States in 1829, answers, that he does not know when the treaty was made; and when he speaks of the eastern boundary of Texas, he speaks of it as he understood it to exist in the year 1825. When he speaks of the boundary between the post of Nacogdoches and Natchitoches, he speaks of it as existing before 1825; he thinks it has not since been changed. Witness can't give any information prior to that period as to the boundary between these two posts.

Cross examination resumed.

Witness knows nothing of his own knowledge, but he has heard a difference has existed between the form of making grants by the Span-

ish government and Mexico. Witness would not think that a grant from the commandant or alcade would have been good, unless it was sanctioned by the government.

Examination in chief resumed.

When he speaks of the approval of the government being necessary, he speaks of Mexico as existing after 1824; he has no knowledge of any time prior. He has no knowledge of the form of making grants prior to that time, save from what he has heard.

(Signed) B. OSER FIELD.

The witness having subscribed the foregoing deposition in my presence, the examination of witness here closed. May 15th, 1845.

(Signed) N. R. JENNINGS, *Commissioner.*

And further, on the 21st day of February, 1846, the counsel for petitioners offered in evidence the testimony of Charles S. Taylor, taken in writing by N. R. Jennings, U. S. commissioner; which testimony is in the words and figures following, to wit:

Clerk's office, United States district court, district of Louisiana. February 6, 1846.

YATES & MCINTYRE
vs.
THE UNITED STATES.

By consent of parties, testimony was taken in the above entitled cause, on behalf of plaintiffs, on this the 6th day of February, 1846.

Charles S. Taylor being duly sworn, states, that he is a lawyer by profession, and resides in Nacogdoches, Texas, having resided there since the early part of the year 1830.

The laws of Mexico remained in force in the country of Texas till the latter part of the year 1835; at which time the Mexican authorities were displaced, and officers appointed by the provisional government of Texas substituted in their places.

Under the Mexican government witness first held the office of alcade for 12 months, and then the office of commissioner to give possession and extend titles to settlers on the frontiers of Nacogdoches and the Gulf coast; the office witness held until the breaking out of the revolution. The government was then changed, under which witness held first the office of chief justice of the county of Nacogdoches; he was then appointed commissioner to run the boundary line between the U. States and Texas; and afterwards received the appointment of district attorney for the 3d judicial district of Texas.

Upon the breaking out of the revolution, and change of Government, commissioners were appointed to call upon the different officers having possession of public papers and demand their surrender; but one of said commissioners ever came to Nacogdoches, and consequently no formal demand was ever made; and, upon a change of officers, a greater part

of the public archives was not in the custody of any particular individual whatsoever. Such being their state, witness was requested, as said chief justice, by resolution of a public meeting, to take possession of them; and by an act of Congress subsequently passed, on the 9th of December, 1837, witness took all papers that were in his possession, relating to grants of land, to the seat of government at Houston, and deposited them in the general land office.

According to a tradition in the country, most of the titles to land in the eastern part of Texas were removed to San Antonio de Bexar. Some time in the year 1834 witness was employed in copying the correspondence of the political chief in his office, who was entitled in his said capacity as chief to the custody of these papers, and during that time a requisition was made by said political chief of the governor of Coahuila, in Texas, for all land titles belonging to that section of country, to wit, Nacogdoches, which were then in the archives at San Antonio; in conformity with which requisition, witness believed that many titles were sent to Nacogdoches. Witness has seen the letter of the political chief resident at San Antonio, accompanying the list of titles there sent, and these titles constituted a portion of the papers taken by witness to the city of Houston under the act aforesaid.

Witness has had much to do with grants in Texas, originating both under the Spanish and Mexican Governments. Witness has examined the documents marked A A and D D, and doc. marked B B and C C, already filed. The doc. marked B B and C C witness states appears to be a copy of the original, and the doc. marked A A and D D appears to be a copy of a certified copy of the original grants, and that these documents appear to be in the customary and usual form of such grants.

It has always been the understanding of witness that the military commandants under the crown of Spain had full power and authority to make grants of land without any restriction or limitation of the power, in reference to quantity, that he knows of. Witness had never heard the authority of said commandants disputed by either the Spanish, Mexican, or the present Texan Government.

Cross examination by the district attorney.

Witness states that his knowledge is confined solely to transactions in Texas, in reference to the power of military commandants to make grants.

States that, previously to the Texan revolution, there were three of the Mexican officers having charge of the public archives; these officers were the political chief, the primary judge, and the alcade; these officers had charge of the papers relating to their several departments. In 1837 witness took charge of all the papers in these several departments. Witness has understood that, under the Spanish Government, the commandants of posts exercised civil and military jurisdiction, and had charge of all the public archives.

Examination in chief resumed.

Witness states that, before the papers referred to were taken into his possession, they had not been in the custody of any person for some months. Witness cannot state whether the papers were disturbed or not; some of the papers were boxed up, and some of them in a loose condition. Witness states that he remembers that two or three of the grants, similar to those on file, have been confirmed by the Mexican Government.

In Texas, under a law of that republic authorizing and requiring suits against the Government in the district court for the county of Nacogdoches, at the last term of such court, a verdict was rendered for the plaintiffs upon a grant similar to these on file, the foundation of which was laid under the Crown of Spain, and the subsequent proceeding were had under the authorities of Mexico; this was an eleven league grant. Witness states that he is aware of another case, in the county of San Augustine, where a recovery was effected under a grant similar to those on file, as witness supposes. These are the only two judicial decisions of which witness has any knowledge, concerning grants, &c. The grant in San Augustine, witness thinks, was some four or five leagues in extent.

The case in Nacogdoches, witness states, is now under appeal, and he understood that the intention was to take up, under appeal also, the case in San Augustine; but he does not know whether it has been taken up or not.

Witness states, that he was counsel for the plaintiffs in the case referred to in Nacogdoches.

Cross examination resumed.

States that, in the case in Nacogdoches, it was a conditional grant, in the nature of a sale; there was a price and condition stipulated, for which reason witness calls it a conditional grant, and one of the conditions was the putting on stock. Witness has never seen the papers in San Augustine, and cannot say whether it was a sale or a grant.

(Signed) CHAS. V. TAYLOR.

Sworn to and subscribed before me, this 6th day of February, 1846; and the testimony here closed for this day.

(Signed) N. R. JENNINGS,
Commissioner.

And on the hearing of the cause, February 21st, 1846, was admitted in evidence, on behalf of the petitioners, a document marked G, containing the deposition of B. Plaisance, A. Prudhomme, G. S. Walmsley, W. T. Walmsley, H. Borgar, Michel Colgan, P. Procella, and P. N. Gagnon, taken under a commission, together with a letter from H. T. Williams to G. S. and W. T. Walmsley, and two plans,

marked B and C, thereto annexed; which document is in the words, figures, and lines following, to wit:

[For map B, see original.]

The annexed diagram represents the tract of land known by the name of La Nana, reported by the commissioners in favor of William Barr & Co., and representatives of Edward Murphy, deceased, heirs and representatives of Luther Smith, deceased, and heirs and representatives of Samuel Davenport, deceased, under number 180, situated in the parish of Natchitoches, northwestern land district, Louisiana, which we have surveyed, pursuant to an order from the surveyor general of the public lands for the State of Louisiana, and in conformity with said report; also, we have divided it in accordance with the partition made under the direction of the court of probates in and for the parish of Natchitoches.

The boundaries of the townships and sections are represented by dark lines, the subdivisions by red lines; the areas of the sections and fractional parts by red figures, and numbers of sections by dark figures.

(Signed) GEORGE S. WALMSLEY,
WILLIAM WALMSLEY,
April, 1841. *U. S. Deputy Surveyors.*

A copy.

We hereby certify that the foregoing map is a true copy of the original map of survey made by us, and returned to the office of the surveyor general, pursuant to his order bearing date 22d February, 1841.

(Signed) GEO. S. WALMSLEY,
WM. T. WALMSLEY,
U. S. Deputy Surveyors.

[For map C, see original.]

The above diagram represents the tract of land known by the name of Las Ormegas, reported by the commissioners in favor of William Barr, heirs and representatives of Edward Murphy, dec'd, heirs and representatives of Luther Smith, dec'd, heirs and representatives of Sam'l Davenport, deceased, under number 181, situated on the left bank of the Sabine river, in the parish of Natchitoches, northwestern land district, State of Louisiana, which we have surveyed pursuant to an order from the surveyor general of the public lands for the State of Louisiana, dated February 22d, 1841; also, we have divided it in accordance with the partition made under the direction of the court of probates in and for the parish of Natchitoches, the 183
as above represented.

The boundaries of the townships and sections are represented by

marked B and C, thereto annexed; which document is in the words, figures, and lines following, to wit:

[For map B, see original.]

The annexed diagram represents the tract of land known by the name of La Nana, reported by the commissioners in favor of William Barr & Co., and representatives of Edward Murphy, deceased, heirs and representatives of Luther Smith, deceased, and heirs and representatives of Samuel Davenport, deceased, under number 180, situated in the parish of Natchitoches, northwestern land district, Louisiana, which we have surveyed, pursuant to an order from the surveyor general of the public lands for the State of Louisiana, and in conformity with said report; also, we have divided it in accordance with the partition made under the direction of the court of probates in and for the parish of Natchitoches.

The boundaries of the townships and sections are represented by dark lines, the subdivisions by red lines; the areas of the sections and fractional parts by red figures, and numbers of sections by dark figures.

(Signed) GEORGE S. WALMSLEY,
WILLIAM WALMSLEY,
April, 1841. *U. S. Deputy Surveyors.*

A copy.

We hereby certify that the foregoing map is a true copy of the original map of survey made by us, and returned to the office of the surveyor general, pursuant to his order bearing date 22d February, 1841.

(Signed) GEO. S. WALMSLEY,
WM. T. WALMSLEY,
U. S. Deputy Surveyors.

[For map C, see original.]

The above diagram represents the tract of land known by the name of Las Ormegas, reported by the commissioners in favor of William Barr, heirs and representatives of Edward Murphy, dec'd, heirs and representatives of Luther Smith, dec'd, heirs and representatives of Sam'l Davenport, deceased, under number 181, situated on the left bank of the Sabine river, in the parish of Natchitoches, northwestern land district, State of Louisiana, which we have surveyed pursuant to an order from the surveyor general of the public lands for the State of Louisiana, dated February 22d, 1841; also, we have divided it in accordance with the partition made under the direction of the court of probates in and for the parish of Natchitoches, the 183
as above represented.

The boundaries of the townships and sections are represented by

dark lines, and the subdivisions by red; the sections are numbered with dark figures, and areas with red figures.

GEORGE S. WALMSLEY,
WILLIAM WALMSLEY,
April, 1841. A copy. *U. S. deputy surveyors.*

Commissions.

Court of the United States, for the district of Louisiana.

To the honorable E. C. Greenaux, parish judge of the parish of Natchitoches, or W. R. D. Speight, parish judge of the parish of Sabine, or to any other judge or justice of the peace in authority, of the State of Louisiana:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you George S. Walmsley, Wm. T. Wamsley, Thos. Jones, Phillip Procella, Robert McDonald, et als., and them duly examine on oath touching and concerning certain matters and things in a cause now depending in the said court, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United States defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Theodore H. McCaleb, judge of said court, at the city of New Orleans, this 12th day of April, anno [SEAL.] domini 1845, and the 69th year of the independence of the United States of America.

(Signed) N. R. JENNINGS, *Clerk.*

Interrogatories.

Interrogatories to be administered to witnesses to be produced, sworn, and examined, in a certain cause now pending in the district court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, petitioners, and the United States defendants, under a commission issued out of said court, directed to the honorable E. C. Greenaux, parish judge of the parish of Natchitoches, or the honorable W. R. D. Speight, parish judge of the parish of Sabine, or to any other judge or justice of the peace of the State of Louisiana, commissioners as well on the part of said plaintiffs, petitioners, as of said defendants.

First interrogatory. What is your age, name, occupation, and place of residence?

Second interrogatory. Do you know the parties, plaintiff petitioners, and defendants, in the title of these interrogatories named, or any or either of them, and which of them; and for how long a time have you

known them respectively, or such of them as you do know? Declare the truth fully.

Third interrogatory. Look upon the paper or letter shown to [you] at the time of your examination, and marked "A," and purporting to be a letter of H. T. Williams, surveyor general of the United States for the State of Louisiana, dated at Donaldsonville, 22d February, 1841, and addressed to George S. and Wm. T. Walmsley, deputy surveyors. Are you acquainted with the handwriting of said Williams, and is the signature affixed or signed to said letter in the handwriting of said Williams; and was said Williams, at the date thereof, the surveyor general of the United States for the State of Louisiana? Did you receive said letter, and when; and did you make the surveys of said La Nana and Ormigas tracts, as therein stated, and plat and return the same, with field notes of the survey, to said surveyor general's office, as therein required; and at what time did you make said survey and returns? Look upon the maps produced and shown to you at the time of your examination, and marked "B" and "C," respectively, and purporting to be maps of said La Nana and Ormigas tracts. Do these maps, respectively, correctly represent your survey of said two tracts and the division lines thereon, the respective interests of the different owners therein, as therein described?

In making said survey, did you find any ancient blazes or marks showing that said tracts of land had been previously surveyed; and how long before, in your judgment and opinion, had said tracts of land been surveyed, respectively; and in what manner did you make said surveys, respectively?

Fourth interrogatory. As register of the land office at Natchitoches, have you recently examined the records and books of that office for the purpose of ascertaining whether any money has ever been refunded by the United States to any of the owners or claimants of said two tracts of land, or any of them, for or by reason of the sale or grants of any part thereof of either of them by the United States; and do you know whether any money has ever been refunded, as aforesaid, on that account?

Fifth interrogatory. Did you find ancient settlements on both of said tracts at the time of making said survey; and upon the Ormigas tract did you find several families by the name of Procella? How long have they been in possession; under whom did they enter and hold possession; how occupy, as vachery or otherwise, and on whose subdivision do they now live, and whose tenants are they?

Sixth interrogatory. How long have you been acquainted with said two grants, and what is, and has been, the character and reputation of each in that neighborhood, among the oldest inhabitants and others?

Seventh interrogatory. Did you know Samuel Smith, the brother, successor and legal representative of Luther Smith in one-fourth interest in each of said tracts, and were you employed by him and others to survey said tracts as aforesaid; who were such other persons; by whom were you paid for said survey, and what interest did said Samuel Smith claim at the time, and from whom claimed?

Eighth interrogatory. Is Luther Smith one of the firm of Davenport, Barr, Murphy & Smith, now deceased, and how long has he been dead; whom did he leave as his heirs at law and legal representatives in said tracts of land, and did he die intestate?

Ninth interrogatory. Are the remaining members of said firm, viz., said Davenport, Barr & Murphy, all deceased; when did they die respectively, and who were their respective heirs and legal representatives; and, at the time of their respective deaths, were they understood to be the joint owners of said two tracts of land?

Tenth interrogatory. What was the business of Davenport, Barr, Murphy & Smith, and where did they, at the time of the existence of said firm, live and transact said business?

Eleventh interrogatory. On what tract of land do you now live; how long have you been in possession of said tract; under whom did you enter; who preceded you as such tenant; how long did your predecessor remain in possession; in what manner did he and *as* you occupy the same, as vachery or otherwise; were the outer lines of said tract distinctly marked by ancient blazes on the trees, or otherwise; what stock have you now on said tract; whence came it, and under whom do you now hold?

Twelfth interrogatory. Were you acquainted with Samuel Davenport, Bernardo Dortolant, Pedro Procla, Jose M. Mora, Jose Flores, Gregoria Mora, Jose Bernado Gutriez, John Cortez, of the parish of Natchitoches, or either, and which of them; are they respectively now living or dead, any, either, or all of them; when did they respectively die, and were they, any, either, or all of them, witnesses before the board of commissioners sitting upon these claims at Natchitoches, or any other place, to your knowledge, information, or belief?

Thirteenth interrogatory. Who were the military and civil commandants and lieutenant governors at Nacogdoches, in Texas, from 1794 to 1805, inclusive; was Texas, at that period of time, a province or department of Spain; where, at the last aforesaid period, was the eastern boundary of Texas; how far did the jurisdiction of the post of Nacogdo[ch]es extend; had said military and civil commandants authority (as such) to make grants and concessions of land; were they under any restriction as to quantity or otherwise; were grants or concessions for stock ranges, or vacheries, larger than those for the mere purpose of cultivation; what was the form or mode of making such grants; and was it necessary to their validity that such grants should be ratified and confirmed by some other or higher power or authority than was possessed by said commandants, or were they absolute and perfect in themselves?

Fourteenth interrogatory. Was Texas invaded, and particularly the post of Nacogdoches, at any time, and when, and by whom; where are now the public records and archives kept by the Spanish Government at that post, (Nacogdoches;) have they been removed, and, if so, when, and under what circumstances, and by whom?

Fifteenth interrogatory. Are you acquainted with the handwriting of

Samuel Davenport, Edward Murphy, William Barr, Luther Smith, Jose Maria Guardiano, Jose Cayetano de Sepeda, Juan Jose Medina, Jose Domingues, Jose Louis de la Begar, Pedro Lara, Jacinto Mora, Bernado Fernandez, Jose Louis de la Vega, Juliano Grande, Dionisio Valde, Jose Peneda Manuel, Bustamente, or any, or either of them; and, if so, which in particular; and do the papers herewith exhibited, at the time of this your examination, and marked E, F, G, H, I, J, and K, respectively, contain their, or either [of their] true signatures, and which of them particularly?

Sixteenth interrogatory. Are you acquainted with the Spanish language; have you compared the English translations, marked L, M, N, O, with the Spanish documents, marked P, Q, R, S, herewith exhibited to you at the time of your examination, any, all, or either of them; and are they true copies or translations, one, all, or either of them, and which in particular?

Seventeenth interrogatory. Have you examined the records and files in your office, and have you found therein any ancient map or maps, or other record evidence relating to one or both of said tracts, and which in particular; and what is the record evidence thereof so found by you?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

(Signed) H. BALDWIN,
Of counsel for petitioners.

The said defendants, reserving all exception to the right of said plaintiffs to take out a commission to take the testimony of witnesses residing in this State, on the facts set forth in the affidavit herein filed; also reserving all exceptions to the foregoing interrogatories, as leading and asking for parol proof in matters which could only be proved by written instruments, propound the following cross interrogatories to the witnesses named in the affidavit herein filed:

I. Are you interested, either directly or indirectly, in the event of this suit; are you to gain or lose any thing, whichever way this cause may be decided; are you connected in business, or otherwise, with either of said petitioners, or with the persons from or through whom said petitioners set up their title? State fully all the particulars in relation to each and every matter herein inquired of.

II. If you answer the third interrogatory in the affirmative, state how you know the facts to which you testify; and if you answer the whole or part of any of the other interrogatories in the affirmative, state how, when, where, and from [whom] you received the information as to each and every fact, in detail, to which you testify. Was not such information derived from the hearsay of others, and from what persons in particular?

III. If you answer the fifth interrogatory in the affirmative, state

what you mean "by ancient settlements," and specify all the particulars in relation to such settlements. How do you know whether such settlements were ancient or modern? When did you first see said settlements, and how many times, and when have you seen said settlements since?

IV. If you answer the sixth interrogatory in the affirmative, state what you mean by "character" and "reputation" therein referred to, and from whom, where, and when, you have heard of such character and reputation. The said defendants specially except to said sixth interrogatory as illegal and inadmissible.

V. If you answer the eleventh interrogatory in the affirmative, state how much, and what part, of the tract on which you live is occupied and cultivated by you. And state the same facts, so far as within your knowledge, as to the person who, it is said in said interrogatory, "preceded you as such tenant." At what period of time did you first have any knowledge as to the possession and cultivation of said tract, and to what extent has it been since cultivated and possessed, and by whom; and what have been your means of information on this subject?

VI. If you answer the thirteenth interrogatory in chief in the affirmative, state how you knew the facts therein inquired of. Where did you reside from 1794 to 1805? During that period, in what pursuit were you engaged? Were not the powers of said civil commandants and lieutenant governors given in writing, and are they not to be now found in writing or in print? If yea, annex, if any are within your control, any such written or printed evidences of authority or power. Have you ever known any grants for vacheries, or otherwise, given during said period by said officers? If yea, specify and describe each and every such grant, and all the particulars thereof. How do you know what was the form and mode of making such grants? And how do you know what was necessary to their validity?

VII. Have you in your possession or under your control any other papers or documents relating to said grants than those referred to in the fifteenth and sixteenth interrogatories; or do you know of any other such papers or documents? If yea, annex them, or copies of them, hereto, or state their contents if you cannot annex them, and state why you do not annex them.

(Signed) J. W. SMITH,
For B. PEYTON,
U. S. attorney for Louisiana.

STATE OF LOUISIANA, *Parish of Natchitoches.*

Be it remembered, that on this 16th day of April, in the year [of] our Lord one thousand eight hundred and forty-five, in pursuance and by virtue of the annexed commission granted by N. R. Jennings, clerk of the court of the United States for the district of Louisiana, which commission is directed to any judge or justice of the peace of the State of Louisiana, to take the testimony of George S. Walmsley, Wm. T. Walmsley, Thos. Jones, Philip Procellas, Robert McDonalds, and

others, witnesses in a certain suit now pending in the court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United States is defendant; whereupon I, Francis H. Areaux, a justice of the peace in and for the parish of Natchitoches, State of Louisiana, between the hours of 10 o'clock, a. m., and 4 o'clock, p. m., on the said 16th day of April, A. D. 1845, proceeded to take the testimony of Bertrand Plaisance, a material witness in said cause, who, being first duly sworn to answer such interrogatories as might be propounded to him, answers as follows, to wit:

To the first interrogatory, he says, my name is Bertrand Plaisance; the register of my age has been accidentally burnt; and [I] cannot state, therefore, with precision, my age; but I think I am about seventy-one years of age; I am by occupation a planter, and reside in the parish of Natchitoches, and in the State of Louisiana, where I was born and have always resided.

To the second interrogatory. I do not know plaintiffs, petitioners; I only know the defendants, as generally reputed and known.

To the third interrogatory. I do not know any thing of the matter therein contained.

To the fourth interrogatory. Does not know any of the matter therein contained.

To the fifth interrogatory. Knows nothing of the matter therein contained, except that he is well acquainted with the La Nana tract, and knows it has been occupied for nearly fifty years as a vachery by Edward Murphy, and persons claiming under him; and witness himself, many years ago, and during the lifetime of Murphy, and about forty years ago, drove some cattle out there for the said Murphy, and left them with his vashery keeper.

To the sixth interrogatory. Has known of the said two grants, La Nana and Ormegas, for nearly fifty years; the reputation of both grants has always been good; both have always been considered as valid grants; witness has himself so considered them, and such has been their general reputation.

To the seventh interrogatory. Knows nothing of the matter therein contained.

To the eighth interrogatory. Witness knows Luther Smith, one of the firm of Davenport, Murphy, Barr and Smith; said Smith has been dead for many years, some thirty years or more, and died without issue.

To the ninth interrogatory. Witness knows that all the members of said firm are *all* dead, and all have been dead for many years; Murphy died first, and nearly forty years ago; Barr died about the same time; Smith and Davenport died about twenty years ago. Witness cannot now enumerate all the heirs and legal representatives whom they respectively left at the time of their respective deaths; when living, they were understood to be the joint owners of the said two tracts of land.

To the tenth interrogatory. The business of Davenport, Barr, Murphy, and Smith, was merchandising at Nacogdoches, in Texas; and when they were at Nacogdoches, they had the exclusive privilege, under

the Spanish Government, of trading with the Indians; their business was large, and they were very favorably regarded by the Government, especially Davenport, who was occasionally temporary commandant, and was always consulted by the officers of Government in all matters of moment, and frequently acted as interpreter on the part of the Government.

To the eleventh interrogatory. Never lived on the land, and knows nothing of the matter therein contained.

To the twelfth interrogatory. Witness knows Samuel Davenport, Barnado Dortolant, Pedro Procella, Jose M. Mora, Jose Floras, Guigoria Mora, Jose Bernado Guitriez, John Cortez, Dortolant Procella, and one Gaspard Bowdwin, who are now all dead, and have been for a long time, and were witnesses, as witness thinks, in these claims of the La Nanna and Ormegas grants; they were all old inhabitants, and witness thinks would have known much about grants of this description; the board of commissioners before whom the said witnesses were sworn, and as witness thinks, sat at Opelousas; witness was himself sworn and examined there before said board in regard to these claims, and thinks that the testimony of the aforesaid Dortolant was taken at the same time. Witness is not quite sure that any of them were present before said board except himself and Gaspard Bowdwin, but is under the impression that all of the aforesaid persons were examined by the board of commissioners in regard to claims of this description.

To the thirteenth interrogatory. Witness cannot tell who were all the military and civil commandants and lieutenant governors at said post, from 1794 up to 1805, inclusive, but knows that Guadiana was one; witness knows him well; and has heard of Bernada Fernanda, but don't know at what particular time he was commandant. Texas was at that period, and for a long time before and after, a province and department of Spain; the Arroy Honda was always considered the eastern boundary of Texas, and also the eastern boundary of the post of Nacogdoches. It was always understood that the civil and military commandants had authority to make grants and concessions of land within their jurisdiction, and were not restricted as to quantity or otherwise; and concessions for vashery were always larger than those granted for the mere purpose of cultivation. The mode of making grants was in the form following: The person wishing a concession presented his petition to the military and civil commandants, setting forth his claim and reasons therefor; the commandant consulted with the attorney general, and, if no objections were found, he ordered his officer, who was usually the attorney general, or syndic, to put the party in possession; this was done with great ceremony by the attorney general or syndic, who always took with him at least two witnesses; the attorney general then made returns of his doings to the military and civil commandant, who ratified or confirmed the same, and ordered the same to be placed in the public records or archives, and a copy thereof to be made out and delivered to the petitioner as his evidence of title; such was, in substance, the mode as witness has always understood. Witness thinks that grants

thus made were absolute and perfect in themselves, and did not require the ratification of any other higher power than was possessed by the commandant.

To the fourteenth interrogatory. The post of Nacogdoches was invaded in the year eighteen hundred and twelve, and possession taken of it by Magee and Guthries; the Spanish force at that place fled it to Sant Antonio, in Texas; in 1813 witness went to Nacogdoches, and there saw Judge Bullard for the first time; and witness understood that the Spaniards carried off all the public records and archives at the time they evacuated the place; does not know where they now are, but presumes they were lost, as it was said the Spaniards were dreadfully frightened, and fled with great precipitancy; has never heard of their having been returned to Nacogdoches.

To the fifteenth interrogatory. Witness says, that no papers being exhibited to him under this interrogatory, he has no answer to make to it.

To the sixteenth interrogatory. He is acquainted with the Spanish language, but no papers having been exhibited to him under this interrogatory, has no further answer to make.

To the seventeenth interrogatory. Witness answers, that he knows nothing of the matter contained in this interrogatory.

To the eighteenth interrogatory. Under this interrogatory witness has nothing further to say, but to reiterate and repeat all which he has already testified to under each and all of the preceding interrogatories.

Crossed interrogatories.

To the first interrogatory. Witness is not interested, directly or indirectly, in the event of this suit; will neither gain nor lose by it, whatever may be the result; he is not connected in business, or otherwise, with the petitioners, or others, under whom they claim or derive their title.

To the second crossed interrogatory. Witness has no further answers to make to this interrogatory than he has already given to the third direct interrogatory, except so far forth as the same may apply to other direct interrogatories; and as to which witness says, that wherever in his direct examination he has testified to facts arising from reputation, understanding, and belief, such reputation, understanding, and belief was general and universal in its character, and was drawn from no particular individual or individuals, but was the reputation, understanding, and belief of the whole community in which he resided at the time to which his testimony refers.

To the third interrogatory. Witness has no further answer to give to this interrogatory, except as heretofore stated, and which he deems a full answer to the same, except as to the number of times when he has visited said La Nanna tracts, and as to which he says he has visited frequently, but how often, or at what particular time, is now not able to state with precision.

To the fourth interrogatory. Witness means by general good character and reputation, that said grants bore such character and reputa-

tion throughout the whole community in their vicinity, and have ever been considered genuine and unquestionable.

To the fifth cross interrogatory. Witness has no further answer to make, except as herein before stated.

To the sixth cross interrogatory. As to the facts stated by me in answer to the 13th direct interrogatory, and so far forth as I profess to speak of the authority of the commandant at Nacogdoches of the boundary of Texas, and of the post of Nacogdoches, as to the limitation of the power of the commandant as to making larger concessions for vasheries than for other purposes, &c., my opinion is derived from the universally received sentiments understood by every body in this vicinity at that day, and doubted by none, to my knowledge or belief, and not from any specific written documents or authority; such at that period was the practice and custom at the post of Nacogdoches, acquiesced in by all, and denied or doubted by none, to my knowledge. At that time I frequently visited Nacogdoches. I have repeatedly seen grants of land on the east side of the Sabine emanating from the commandants of the post at Nacogdoches, similar to that stated in my direct examination; many are now held under such grants, and not a few of them have been confirmed by the United States Government; from all of which I infer that such power did exist by such commandants, and that such grants or concessions of land are good and valid; my residence, occupation, &c., are as stated in my first direct interrogatory.

To the seventh cross interrogatory. Winess has not in his possession or control any papers relating to the said grants, or to either of them, and has no further answer to make to these cross interrogatories than as already stated in his answers to the 17th direct interrogatory.

his
(Signed) BERTRAND ⋈ PLAISANCE,
mark.
Not knowing how to write.

Sworn to and subscribed before me, at the town and parish of Natchitoches, (La.,) this 16th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace in and for the parish of Natchitoches, Louisiana.

STATE OF LOUISIANA, *Parish of Natchitoches.*

Be it remembered, that on this 17th day of April, in the year of our Lord one thousand eight hundred and forty-five, in pursuance of, and by virtue of, the annexed commission, granted by the court of the United States for the district of Louisiana, and signed by N. R. Jennings, clerk of said court, which commission is directed to any judge or justice of the peace of the State of Louisiana, to take the testimony of George *L.* Walmsley, Wm. T. Walsmley, Thomas Jones, Philip Procellas, Robert McDowald, and others, witnesses in a certain suit now pending in the court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United

States defendant. Whereupon J. F. H. Areaux, a justice of the peace duly commissioned and sworn, and acting in and for the parish of Natchitoches, State of Louisiana, between the hours of 10 o'clock, a. m., and 4 o'clock, p. m., on the said 17th day of April, 1845, proceeded to take the testimony of Antoine Prudhomme, a material witness in the said cause, who being duly sworn to answer such interrogatories as might be propounded to him, answers as follows, to wit:

To the 1st interrrogatory he says: My name is Antoine Prudhomme; I am seventy-seven years of age; I am a planter; my residence is in the village of Natchitoches, State of Louisiana, where I was born and have always resided.

To the 2d interrogatory. I do not know the plaintiffs, petitioners, or either of them, and only know the defendants as generally reputed and known.

To the 3d interrogatory. I know nothing of the facts contained in this interrogatory.

To the 4th interrogatory. I know nothing of the facts stated in this interrogatory.

To the 5th interrogatory. I know nothing of the facts contained in this interrogatory, except as hereinafter stated by me in answer to the last interrogatory. I have heard (6 int.) of the La Nanna and Ormegas grants for about forty-five or fifty years last past; the La Nanna was made to Edward Murphy; and both as belonging to Davenport, Barr, Murphy, and Smith; they [have] always been in good repute, and always considered as perfect and valid grants.

To the 7th interrogatory. I know nothing of the matter inquired of by this interrogatory.

To the 8th interrogatory. I was acquainted for many years with Luther Smith, one of the firm of Davenport, Barr, Murphy & Smith, and he has been dead for many years past. Smith was, when I knew him, a single or unmarried man; and I believe died without issue; do not know whom he left as heirs at law, and do not know whether he died intestate or not.

To the 9th interrogatory. I was well acquainted with Samuel Davenport, Edward Murphy, William Barr, and Luther Smith; at an early day they did business together as a commercial firm in Nacogdoches, in Texas; they are all dead, and have been for many years past; can't say exactly how long, but quite a number of years; the last died more than twenty years ago, and the others long before. When living they were the reputed owners of said tracts.

To the 10th interrogatory. The business of Davenport, Barr, Murphy, and Smith, was merchandising; their place of business was Nacogdoches, in Texas.

To the 11th interrogatory. I know nothing of the matter inquired of by this interrogatory.

To the 12th interrogatory. I know them all; they are all dead. Can't say when they died, but they have been dead for many years;

don't know as to their having been witnesses before the board of commissioners.

To the 13th interrogatory. I cannot tell who were the military and civil commandants and lieutenant governors at the post of Nacogdoches, from the years 1794 up to 1805, inclusive, but recollects that Guardiana was one, and thinks that he was during that period; was never at Nacogdoches but once, and that was when he was a boy. Texas was a province or department of Spain for a long time before the year 1794, and a long time after the year 1805 the eastern boundary of Texas was always understood to extend to the Arroy Honda, five miles west of Natchitoches, until the treaty between the United States and Spain, which moved it to the Sabine river; jurisdiction of the post of Nacogdoches extended east to the Arroy Honda, as there was no other commandancy or post between the Arroy Honda and the Nacogdoches, and so continued until since the treaty with Spain. It was understood that the military and civil commandants of the different posts had authority as such to grant lands within their respective jurisdictions. Never heard of any restriction upon their authority as to quantity or otherwise; thinks there was none. Grants or concessions for stock ranges, or vacheries, were always larger, and much larger, than those that were made for the mere purpose of cultivation. Can't say what was the particular form or mode of making such grants, as witness never dealt in them. Witness lived in the province of Louisiana, and obtained his grant from the commandant at New Orleans, but always understood, and believes, there was some difference as to the mode of making them. Those issued at New Orleans were less formal than those issued at Nacogdoches; my grants from the commandancy at New Orleans was in the mere form of requests; in ancient times, when there was but few inhabitants, and most of lands vacant, we got it for nothing; we only had to petition for it and it was given, the only thing we paid was ten dollars for making out the title. Can't say that it was necessary to have titles ratified by any higher power; always supposed that unconditional grants made by the commandant at Nacogdoches were perfect in themselves.

To the 14th interrogatory. I know that Texas was invaded by a force from here in the year, I think, of eighteen hundred and twelve. Nacogdoches was taken, and the Spaniards, I understood, fled to San Antonio. Don't know whether they took the public records with them or not, and don't know what became of them, or where they now are.

To the 15th interrogatory. I knew Jacinto Mora, and several others of them, but no papers being exhibited, cannot further answer.

To the 16th interrogatory. I am not acquainted with the Spanish language, and no papers having been exhibited to me under this interrogatory, have no further answer to make.

To the 17th interrogatory. I know nothing of the matters set out in this interrogatory.

To the 18th and last interrogatory. I know nothing, and can state nothing, further than merely to reiterate what I have before stated un-

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der the preceding interrogatories, except that some fifty years ago I was on the Ormegas tract, at the house of Emanuel Procellas, a Spaniard, who was living on it and keeping a vacherie; I always knew Emanuel Procellas as living there, and believe he died there.

Cross interrogatories.

To the 1st interrogatory. I have no interest, direct or indirect, in the event of this suit, and shall not gain or lose any thing whatever way the cause may be decided. I am not connected in business or otherwise with either of said petitioners, nor with persons from whom they claim or set up their title.

To the 2d interrogatory. I answer this as in my answer to the 3d direct interrogatory.

To the 3d interrogatory. I can make no further answer to this interrogatory than as already given in my answer to the 5th direct interrogatory.

To the 4th interrogatory. The reputation to which I have testified in the 6th direct interrogatory, as relating to those grants, I mean by it a general, public, universal reputation in this vicinity; cannot tell from whom I derived it particularly, as it is and always has been a universal sentiment; have no recollection of ever having heard any opinion expressed impeaching, or even calling in question, the genuineness or validity of either the La Nana or Ormegas grants.

To the 5th interrogatory. I refer to my answer to the 11th direct interrogatory for my answer to this, and can make no further answer.

To the 6th interrogatory. I resided at Natchitoches, as stated in my answer to the first direct interrogatory; so far as I have testified on my direct examination, under the 13th interrogatory, to reputation, understanding, and belief, &c., I mean by it to refer to the commonly received opinion by the whole community in this region of country; at the time grants by the military and civil commandants were common in those days, and their authority to make them was never doubted or questioned; and in this way a general opinion obtained, and in this way I suppose my own was formed. I have never seen any printed or written power or authority to the commandants or lieutenant governors, and do not know that any existed. I have known several grants as vacheries in this region of country, and they are always large; and when the soil is light, the land poor, and the grass thin, they are much larger than when the soil is rich. As a whole, the entire country between the Red river and Sabine is pine land, poor and light soil; and such I believe to be the character of the lands embraced by both these grants.

To the 7th interrogatory. I have no papers in my possession or control relating to said grants, or either of them; nor do I know any thing about them.

Signed, PRUDHOMME.

Sworn to and subscribed before me, at the town of Natchitoches, on this 17th day of April, A. D. 1845.

Signed, F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

STATE OF LOUISIANA, *parish of Natchitoches.*

Be it remembered, that on this 22d day of April, in the year of our Lord one thousand eight hundred and forty-five, in pursuance of, and by virtue of, the annexed commission, granted by the court of the United States for the district of Louisiana, and signed by N. R. Jennings, clerk of said court, which commission is directed to any judge or justice of the peace of the State of Louisiana, to take the testimony of George S. Walmsley, William T. Walmsley, Thomas Jones, Philip Procella, Robert McDonald, and others, witnesses in a certain suit now pending in the court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United States defendants; whereupon, I, F. H. Areaux, a justice of the peace, duly commissioned and sworn, and acting in and for the parish of Natchitoches, State of Louisiana, between the hours of 10 o'clock, a. m., and 4 o'clock, p. m., on the said 22d day of April, 1845, and the days following, as will hereafter more fully appear, proceeded to take the testimony of George S. Walmsley, William T. Walmsley, and others, who being material witnesses in the said suit, and after being duly sworn to answer such interrogatories as might be propounded to them, witness answers as follows, to wit:

To the first directory interrogatory. He says, my name is George S. Walmsley; I am twenty-seven years of age, am by profession a surveyor and acquainted with the art, and was at the time a United States deputy surveyor, and have for the last six or seven years been a resident of the parish of Natchitoches, in the State of Louisiana.

To the second direct interrogatory. I do not know the plaintiffs, petitioners, nor either of them personally, and know the defendants as generally reputed and known.

To the third direct interrogatory. I am acquainted with the handwriting of H. Williams, late United States surveyor general for the State of Louisiana. The signature signed to said letter is in the proper handwriting of said Williams; it is his signature, and said Williams at the date of said letter was the United States surveyor general for the State of Louisiana. Said letter was received by me shortly after the date thereof, and said surveys of the La Nana and Ormegas tracts of land were made by me, and my brother, William T. Walmsley, also a United States deputy surveyor, and now register of the northwestern land district of Louisiana, at Natchitoches aforesaid. Said surveys were commenced shortly after the date of said letter and finished, and returns made thereof, pursuant to the directions contained in said letter, some time in the month of April, 1841.

The maps annexed to this commission, and marked B & C respectively, correctly represent said surveys, and the division lines thereon

represent truly the interest of the different owners in each of said tracts, as I understand them. In making said surveys we followed the instructions contained in said letter, and in running the outer lines of the Ormegas tract we found them all distinctly marked by blazes on the forest trees, evidently very ancient, but exactly how old I cannot say; am of the opinion, however, that they were from forty to fifty years old. The old survey was very correct, and making du*ly* allowances for the variations of the needle, corresponding with our survey. The outlines of the La Nana were not as well marked and defined as the Ormegas tract; we, however, found the centre tree, which bore distinct and very ancient marks, which was shown to us by people in that neighborhood as being the centre of the tract, and which, in its location, corresponded with the centre, as described in the original grant; from that tree we took our departure.

To the fourth direct interrogatory. I know nothing of the facts contained in this interrogatory, and therefore cannot answer.

To the fifth direct interrogatory. We found on both tracts several old settlements, how old precisely I cannot say; but from the appearance of the fences and buildings it was evident that they had been for a long time settled. On the Ormegas tract we found several persons by the name of Procella; they were on the subdivision belonging to Yates & McIntyre, but when they came, or how long they had been in possession, I cannot state.

To the sixth direct interrogatory. I have heard of the La Nana and Ormegas grants ever since I first came to the country; these grants have a good reputation, and are generally regarded as good, especially among the old inhabitants.

To the seventh direct interrogatory. I knew Samuel Smith, said to be the brother of Luther Smith, deceased. I was employed by him, (he representing the Barr interest, Henry Yates & Archibald McIntyre, they representing the Luther Smith interest,) Lewis G. De Russy & others representing the Davenport interest, and C. E. Grineaux (who yet owes a balance of fifty dollars on said survey) and others, representing the Murphy interest, to survey said tracts, each of whom paid one-fourth, except said Samuel Smith, by whom I have not yet been paid, but secured by a deed to a tract of land. As to the 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 interrogatories, witness answers, that he knows nothing; and as to the last, he answers that, under this interrogatory he reiterates and repeats all that he has before stated, and can add nothing to the same which I can recollect of at present.

Cross interrogatories.

To the first cross interrogatory. I am not interested, either directly or indirectly, in the event of this suit, and shall not gain or lose anything, whatever may be its result, that I know of. I am not connected in business, or otherwise, with either of said petitioners, nor with the person or persons through whom they derive their title.

To the 2d cross interrogatory. Can make no further answer, as I cannot presume that any further is required.

To the third cross interrogatory. I mean that the settlements which we found on the land were evidently very old, but at what exact date they were commenced cannot say. I saw those settlements for the first time, or most of them, when I made the survey; have seen some of them, in passing, a few times since.

To the fourth cross interrogatory. I cannot state from whom, specifically, I have heard the opinion expressed; it is the general opinion of the country in this region. My own opinion has been formed, in part, from that general opinion, but mainly from the report of the register and receiver at Opelousas, when settling upon these and other claims of a similar character, and from their reports thereon, from all of which I have formed the opinion that the titles are good.

To the fifth cross interrogatory. I know nothing of the matters contained in this interrogatory, or the one to which it refers, except as have before stated.

To the sixth cross interrogatory. I know nothing of the matters contained in this interrogatory.

To the seventh cross interrogatory. I know nothing of the matters contained in this interrogatory.

(Signed) GEO. S. WALMSLEY.

Sworn to and subscribed before me, at the town and parish of Natchitoches, this 22d day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is William T. Walmsley; I am twenty-five years of age, and by profession a surveyor; am acquainted with the art of surveying; have been United States deputy surveyor, and now register of the land office at Natchitoches, for the northwestern district of Louisiana, and reside at Natchitoches.

To the 2nd direct interrogatory. I do not know the plaintiffs, or either of them, and only know the defendants as reputed and generally known.

To the 3d direct interrogatory. I am the brother of George S. Walmsley; assisted in making said survey; have seen his testimony, and agree with him in every particular as stated in his direct and cross examination, and to which I add, under the—

4th direct interrogatory. That, as register of the land office at Natchitoches, I have recently examined the records and books in my charge as such register, and find therein no entry or other evidence of any money ever having been refunded by the United States to the claimants, or any other person or persons, on account of any grants or sales made by the United States of any portion or parts of the La Nanna or Ormegas tracts of land, or either of them; nor do I know, or believe,

that any money has been refunded on that account, as the books in my charge as register would show the same if such were the facts.

5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and last direct interrogatories, and to the cross interrogatories from No. 1 to No. 7, inclusive, I give the same answer as did my brother George S. Walmsley, already examined in this behalf.

(Signed) WM. T. WALMSLEY.

Sworn to and subscribed before me, at the town of Natchitoches, this 25th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the first direct interrogatory. My name is Henry Borger; I am about sixty-nine years of age. I have been a planter for some years past, but am now out of business; my residence is in Natchitoches, Louisiana, and have resided in the parish of Natchitoches since 1806.

To the 2d direct interrogatory. I am not acquainted with plaintiffs, petitioners, or either of them, and know the defendants as generally reputed and known.

To the 3d direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the 4th direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the 5th direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the 6th direct interrogatory. I have heard of the La Nana and Ormegas grants ever since I have been in the country, and the reputation has been always regarded as good.

To the 7th direct interrogatory. I know nothing of the matters contained in this interrogatory, except that I knew Samuel Smith.

To the 8th direct interrogatory. I am informed, and believe, that Luther Smith is, and for many years past has been, dead, but how long I cannot say; don't know whom he left as his heirs at law, except Samuel Smith, whom I knew, and who, on one occasion, when in this country attending to his land on those grants, boarded at my house, and who on his last visit here died in this village, at the house of Michael Colgan; don't know whether Luther Smith died intestate or not.

To the 9th direct interrogatory. The remaining members of the firm of Davenport, Barr, Murphy & Smith, are also dead, and have been for a great many years, but how long, or where they respectively died, cannot say; when living, and at their respective deaths, they were the reputed owners of the La Nana and Ormigas grants.

To the 10th direct interrogatory. The main business of Davenport, Barr, Murphy & Smith, was merchandising, at Nacogdoches, in Texas; they also had some vacheries as early as 1812 or 1813. I was on the La Nana tract then occupied, and a few years after on the Ormegas, also occupied as a vachery by a Spaniard by the name of Procella, I now

believe under Davenport and others; don't recollect the exact time, but remember that I got several head of cattle of him.

To the 11th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 12th direct interrogatory. I knew Samuel Davenport and John Cortes, both of whom are now dead, and have been many years; do not know the others, and do not know that any of them were witnesses before the board of commissioners sitting on these and other similar claims.

To the 13th direct interrogatory. Not having any thing to do with claims of this description, I know nothing of them, or any other matters inquired of by this interrogatory, except that Texas was always considered a province or department of Spain until a few years ago, when the independence of Mexico was acknowledged by Spain. The Arroy Hondo, about five miles west of Natchitoches, was always considered the eastern boundary of Texas, and of the jurisdiction of Nacogdoches, until the treaty between Spain and the United States of 1819, which removed it to the Sabine river.

To the 14th direct interrogatory. Texas was invaded, and particularly the post of Nacogdoches, in the year 1812 or 1813, and the Spaniards driven from Nacogdoches in one of those years, 1812 or 1813. I was there; the place was then in possession of the invaders or republicans. I knew *of* nothing of the public records, or what became of them, or where they now are.

To the 15th direct interrogatory. No papers being exhibited to me, I have nothing to say in answer to this interrogatory.

To the 16th direct interrogatory. No papers having been exhibited to me under this interrogatory, I have nothing to say in regard to it.

To the 17th direct interrogatory. I know nothing of the facts inquired of by this interrogatory.

To the 18th and last direct interrogatory. I can only repeat what I have before said under the preceding interrogatories, and know nothing beyond what I have already stated.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested, directly or indirectly, in the event of this suit, and shall neither gain nor lose, whichever way this may be decided, nor am I in any way concerned in business with any of the petitioners, or others from whom they derive their titles.

To the 2nd cross interrogatory. Cannot answer any further or more fully than I have in my answer to the direct interrogatory.

To the 3rd cross interrogatory. Cannot answer more fully than I have already done.

To the 4th cross interrogatory. The character and reputation to which I refer, was the general character throughout the country; cannot tell from whom in particular it was derived.

To the 5th cross interrogatory. Cannot answer more fully.

To the 6th cross interrogatory. So far as the facts to which I have testified under the 13th direct interrogatory are based on information, that information was general, universal, not derived from any particular source, but from the whole community; my residence and employment is as already stated.

To the 7th cross interrogatory. I can give no other or further answer than already given in my answer to the 15th and 16th direct interrogatories.

(Signed) HENRY BORGER.

Sworn to and subscribed before me, at the town of Natchitoches, this 26th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is Michael Colgan; am about thirty-five years of age, and engaged in merchandising, and reside in Natchitoches, where I have resided for the last 13 years.

To the 2nd direct interrogatory. Don't know the plaintiffs, and only know the United States as generally reputed and known.

To the 3d direct interrogatory. Don't know any thing of the matters inquired [of] by this interrogatory.

To the 4th direct interrogatory. Don't know any thing of the matters inquired of by this interrogatory.

To the 5th direct interrogatory. Don't know any thing of the matters inquired of by this interrogatory.

To the 6th direct interrogatory. I heard of these grants soon after I came to the country, and their character has always been considered good.

To the 7th direct interrogatory. I knew Samuel Smith; he was several times in this country attending to his interest in these claims; the last time he was here, now two years ago, he sickened and died at my house. I know nothing of other matters inquired of by this interrogatory.

To the 8th direct interrogatory. I have been informed and believe that Luther Smith is dead, and that his mother Abagal Smith, his sister Mary Smith, and his brothers Nathen and Samuel, succeeded to his estate as heirs at law; have also understood and believe that he died intestate.

To the 9th direct interrogatory. I am also informed and believe that the remaining members of the said firm are also dead, but don't know when they died, or where their heirs or legal representatives; cannot say whether they, at the time of their deaths, were the reputed owners.

To the 10th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 11th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 12th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 13th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 14th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 15th direct interrogatory. No papers being exhibited, I have no answer to make to this interrogatory.

To the 16th direct interrogatory. No papers being exhibited, I have no answer to make to this interrogatory.

To the 17th direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the last direct interrogatory. I can only repeat what I have before said under the preceding interrogatories, and have no further answer to make.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested either directly or indirectly in the event of this suit, and shall neither gain or lose whatever may be the decision; nor am I connected in business, or otherwise, with either of the petitioners, nor with any person or persons through whom they derive their title.

To the 2d cross interrogatory. Can give no further answer than as already given.

To the 3d cross interrogatory. Can give no further answer than as already given.

To the 4th cross interrogatory. I mean by character and reputation such as is understood by and derived from the whole community; can't state any particular individual, but generally from every body that I have heard talk about it.

To the 5th cross interrogatory. Can give no further answer than as already given.

To the 6th cross interrogatory. Can give no further answer than as already given.

To the 7th cross interrogatory. Can give no further answer than as already given.

(Signed) M. COLGAN.

Sworn to and subscribed before me at the town of Natchitoches, this 26th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is Philip Procell; am the eldest son of Emanuel Procell. I am about thirty-eight years of age. I am a vashery or stock keeper, and reside on the Ormigas tract or grant in the parish of Sabine, formerly the parish of Natchitoches.

To the 2d direct interrogatory. I do not know the plaintiffs, petitioners, nor either of them, and only know the defendants as they are generally reputed and known.

To the 3d direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 4th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 5th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter mentioned.

To the 6th direct interrogatory. I have heard of both of said grants from my earliest recollection; the character and reputation of each has always been good; both have been considered legal and valid grants.

To the 7th direct interrogatory. I know said Samuel Smith, but know nothing further of the matters inquired of by this interrogatory.

To the 8th direct interrogatory. I have heard of Luther Smith and his death, and have understood that he died intestate, and that he left his mother, brothers, and sister, as his heirs at law and legal representatives.

To the 9th direct interrogatory. The remaining members of said firm, viz., Samuel Davenport, Edward Murphy, and William Barr, are all dead, and have been so for many years; but at what time they respectively died I am not able to state, except as to Samuel Davenport, who died, I think, in the year 1825, and was the last survivor of said firm. I cannot enumerate all the heirs and legal representatives of each of them; when living, they were the reputed owners of said land, and I believe died possessed of it.

To the 10th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except that I have understood that they had a store and transacted business at Nacogdoches, in Texas, and know that they had vasheries on the La Nana and Ormigas tracts.

To the 11th direct interrogatory. I live on the Ormigas tract aforesaid; have been in possession ever since the death of my father, Emanuel Procella, who died on the tract about five years ago. I have, however, lived on the tract ever since I was a boy. I entered under the claim of Davenport and others as vashery keeper in place of my father; my father preceded me as tenant under the claim of Davenport and others. I have understood from my father that he entered in possession of said tract as vashery keeper for the owners about forty-five or fifty years ago, but cannot speak from my own recollection further back than about 1812 or 1814. I know that he was then in possession as tenant under the claim of Davenport and others, and so continued to the day of his death. The place has always been, and now is, occupied as a vashery. The outlines of the tract have from my earliest recollection been distinctly marked by blazes on the trees. The stock now on the tract consists of cattle, horses, and brood mares; most of the cattle came from the original stock, placed there, as I have been informed and believe, about fifty years ago; some portion of them, and all the horses and brood mares have been put there since, and within the last few years, by Henry Yates and Archibald McIntyre, through their attorney, H. Baldwin. I now hold, and have since the division

of the tract, under said Yates & McIntyre; before that period, we held possession of the whole tract.

To the 12th direct interrogatory. I know them all except Dortalan and Guitriz, and know that all those I did know are all dead except Jose M. Mora, and as to him I can't say.

To the 13th direct interrogatory. I don't know who the military and civil commandants at Nacogdoches were at the period inquired of. Texas was a province or department of Spain until a few years ago, when Spain acknowledged the independence of Mexico. The eastern boundary of Texas and the eastern boundary of the jurisdiction of the post of Nacogdoches was always understood to be the Arroy Hondo, until since the treaty of 1819 between Spain and the United States, which removed it west to the Sabine. I cannot tell, from any personal transactions with the commandants of the post of Nacogdoches, whether they had power to make grants or concessions of land, but have always understood that they did possess that power. I know that grants for vasheries were always larger than those made for agricultural purposes, as ploughing, &c. Can't say, from any personal knowledge, what was the form or mode of making such grants, and do not know whether it was necessary that such grants should be ratified or confirmed by any other or higher authority, but never supposed that it was. Always supposed, and now believe, that grants of land when made by the commandants of that post, if unconditional, were perfect in themselves.

To the 14th direct interrogatory. I cannot speak of the matters inquired of by this interrogatory from personal knowledge, as I was then very young, but have often heard of the invasion of Nacogdoches by the Republican army in 1812 and 1813; that the Spaniards were driven out, and that they carried with them the public archives. This is a part of the history of that day and of that affair.

To the 15th direct interrogatory. No papers being exhibited to me, I have no answer to make to this interrogatory.

To the 16th direct interrogatory. I am acquainted with the Spanish language; but no papers being exhibited, I have no further answer to make to this interrogatory.

To the 17th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the last direct interrogatory. I can only repeat what I have before said in answer to the preceding interrogatories, and have nothing further to add.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested directly or indirectly in the event of this suit; nor shall I gain or lose any thing whatever way this cause may be decided. I am not connected in business, nor otherwise, with either of the petitioners, nor with any persons through whom they derive their title.

To the 2d and 3d [cross] interrogatories. Can make no further answer to these interrogatories than I have already given in my direct examination.

To the 4th cross interrogatory. By character and reputation I mean that general character and reputation which exists throughout the whole community, in the vicinity of those grants, in regard to them. Cannot state from whom in particular I derived such information; but, from every body that I have heard speak of them, have never heard the genuineness or validity of those two grants questioned or doubted, that I recollect.

To the 5th cross interrogatory. Cannot state how many acres there are under improvement. There are several fields, but don't know the quantity in each. I live on the western part of the tract, about three miles from the Sabine river. I have four brothers, all heads of families but one; and one brother-in-law, also a man of family; also a sister, with two children—numbering in all more than thirty persons. They all reside on different parts of the land, and hold under the same title which I do. My father lived on the place now occupied by my brother, José Procella, and in his lifetime cultivated more land than I do. I cannot state more fully with regard to the possession of the tract than I have already done in my direct examination. It has always been occupied and possessed as a vacherie. A very large herd of cattle was kept there by my father, which has been since greatly reduced. The general character of the land is poor, the grass thin, and of course it required a large tract to feed them. The herd roamed at large over the whole extent of the grants; and in this way was the tract mainly occupied and possessed. My means of information were such as already stated.

To the 6th cross interrogatory. I refer for answer to this interrogatory to my answers already given under the direct interrogatory, and cannot answer more fully.

To the 7th cross interrogatory. Cannot give any other answer than as already given to fifteenth and sixteenth direct interrogatories.

(Signed) PHILIP his ⋈ mark. PROCELLA.
(Not knowing how to write.)

Sworn to and subscribed before me, at the town of Natchitoches, this 26th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is Pierre N. Gagnon. I am fifty-seven years of age; am a planter. I am a native of the parish of Natchitoches, in the State of Louisiana, and have always resided here, except from 1804 to 1813, during which period I resided in Nacogdoches, in Texas.

To the 2d direct interrogatory. I am not acquainted with the plaintiffs or either of them, and only know the defendants as generally reputed [and] known.

To the 3d direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 4th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 5th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter mentioned.

To the 6th direct interrogatory. I have heard of the existence of said two grants since the year 1804, at which time I went to live at Nacogdoches in Texas—the La Nana as having been granted to Edward Murphy, and the Las Ormigas as having been granted to Jacinto Mora, by the Spanish commandants at Nacogdoches. The character and reputation of both of said grants *is*, and *has* been always, considered as good and unquestionable; have never heard, to my recollection, their validity doubted.

To the 7th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 8th direct interrogatory. I was well acquainted with Luther Smith. Have been informed, and believe, that he is dead, and has been for many years past; that he died without issue, and left his mother, Abogal Smith, his sister Mary, and his brothers Nathan and Samuel, of Herkimer county, in the State of New York, his heirs and legal representatives; and that he died intestate.

To the 9th direct interrogatory. I was well acquainted with Samuel Davenport, Edward Murphy, and William Barr. Have been informed, and believe, that all of them are dead, and have been for many years past. Davenport died in the year 1824 or 1825, and was the last survivor. The others died many years before, and, as I believe, between the years 1809 and 1812. I know many of the heirs and legal representatives of the respective parties, but cannot enumerate them all. At the time of their respective deaths they were the reputed owners of the La Nana and Ormigas tracts.

To the 10th direct interrogatory. The business of Davenport, Barr, Murphy, and Smith, was merchandising at Nacogdoches, in Texas, which commenced, I believe, as early as 1798, and continued until some time in the year 1806. They also had extensive vacheries on the La Nana and Ormigas tracts.

To the 11th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated in answer to the last direct interrogatory.

To the 12th direct interrogatory. I know them all. They are all dead, and have been for many years; but at what time in particular they died, cannot state. Have understood and believe that several of them were witnesses before the board of commissioners sitting on land claims in this district many years ago.

To the 13th direct interrogatory. Cannot say who were all the mili-

tary and civil commandants between the years 1794 to 1805, as they were frequently changed. I knew some of them personally, and others by reputation. Knew Don Maria Guaidiana and Donisio Valley well; they were among the number. Valles was the last in command within that period, and thinks Guaidiana preceded him. Thinks that Bernada Fernandez was in command of that post some time during that period. Texas was at the time a province or department of Spain. The eastern boundary of Texas and the post of Nacogdoches was always understood to be the Arroyo Hondo, about five miles west of Natchitoches, until the treaty between Spain and the United States in 1819, which fixed it at the river Sabine. So far as my knowledge extends, it was always understood that the military and civil commandants, at the post of Nacogdoches, had power and authority to make grants and concessions of land; and I never heard that they were under any restrictions as to quantity or otherwise. Stock ranges, or vacheries, were always large, dependant upon the amount of stock and the quality of the land. If the soil was poor more land was given than if it was fertile, as it would require a larger range to keep the stock on poor land than on good. Vacherie grants were always larger than those made for the mere purpose of cultivation. The form or mode of making grants was in this way: The person that wanted a concession or grant of land made a petition, in which he set out his wants, his claims, and his reasons. This he signed and presented to the commandant of the post. If the commandant thought favorably of it, he ordered his officer to go, with two or more witnesses, and examine the land, and, if no objections were found, to put the person in possession. The officer did as required, and went back to the commandant and reported to him what he had done. The commandant then endorsed his approval, and either directed the proceedings to be filed with public records, and a copy to be made out for the petitioner, as his evidence of title, or directed an entry to be made of the grant in the public records, and the original papers to be handed to the petitioner. The former, however, was the usual way. If copies were made out, they were termed *copias del origenali*. In most cases that I have seen, such copies were held by the owners of the grant; and these were deemed good evidence of title. I never heard it was necessary to have these grants submitted to any other or higher authority, but always supposed that, if the grant was unconditional, *that* it was perfect in itself. Some of the grants were conditional, and in such cases they were not perfect until the conditions were fulfilled.

To the 14th direct interrogatory. Texas was invaded and the Spaniards driven out of Nacogdoches in the year 1812, and another force from the States came on in the year 1813; the invaders were called the republican army. I belonged to it. Cannot say where the public records now are which were kept by the Spanish commandants at the post of Nacogdoches; it was understood at the time of the invasion that they were carried off by the Spaniards to San Antonio, and I have heard that they were burnt there; at the time we drove them from San Antonio

in 1813, we had several battles with them, and always beat them. Can't say where the records are, if they now exist. I went to Nacogdoches in the year 1827, to search for the title to a lot I owned in Texas, but could not find it; nor could I find any public records or files there of old Spanish grants. I was told that they had never been returned since they were carried off.

To the 15th direct interrogatory. I knew all these parties, and am acquainted with the handwriting of Davenport, Murphy, Guaidiana Tepida Valley, and several others; but no papers being exhibited to me, have no further answer to make to this interrogatory.

To the 16th direct interrogatory. I am acquainted with the Spanish language; but no papers having been exhibited to me, have no further answer to make to this interrogatory.

To the 17th direct interrogatory. I have no maps or other records, evidence in relation to these grants, and know nothing of the matters inquired of by this interrogatory.

To the 18th and last interrogatory. I know many things in regard to this matter which I have not stated, and prefer telling my own story in my own way. In the year 1804, I went to live at Nacogdoches with Mr. Davenport, who was my brother-in-law. I remained there until 1813, and for most of the time was a clerk in the store of Davenport, Barr, Murphy, and Smith, kept at that place; their store was large, and they did a very extensive and heavy business, and were in great favor with the government, and were regarded as loyal subjects and good citizens, especially Mr. Davenport, who was very often consulted by the commandants, and served as adviser and interpreter between them and other persons in matters of moment; they distributed gifts to the Indians for the government, and frequently furnished supplies to the troops and paid off their soldiers; at one time they paid over fifty thousand dollars, Spanish mill dollars, which, I am told, to this day has not been refunded to them by the Spanish government. I was frequently sent out to the La Nana and Ormigas vacheries, during my residence at Nacogdoches, both of which the firm of Davenport & Co., or, as was usually called William Barr & Co., had large stocks of cattle; in the latter part of the year 1804, they had the La Nana tract surveyed by a surveyor from Nacogdoches, who was usually employed by the commandants at the post of Nacogdoches, by the name of Colonan. I went with the party, and was one of the chain bearers; we started from a cherry tree standing in the prairie, and near the La Nana, and which was marked as the centre of the tract; from that tree we took our departure, and ran around the whole tract according to the terms of the grant, a copy of which the surveyor had with him; we occasionally made blazes on the trees, and these marked our lines; we were engaged several days in making the survey, as the streams were high, and in the bottom land the cane was thick; a man by the name of Bengess was living on the land at the time with his family, and was a vachery keeper for William Barr & Co.; he had been living there, as I understood, for several years, and his house and improvements bore the marks of age; they had a large stock on the place;

from this period to 1812 I frequently visited the tract; Burgiss remained on it as vashery keeper as late as 1812, and I think after that period; some time in the year 1805 or 1806, and as I believe in the latter year, I first went to the Ormigas tract; was sent there to see to the cattle by my employers, William Barr & Co.; there was a large stock of cattle on the place marked with their brand, and belonging to them. I often visited there afterwards, and in passing from Natchitoches to Nacogdoches, or either way, always staid at one or the other vacheries over night; once every year in the spring, I was always sent out to see to the collecting and branding of the stock; and thus was very familiar with both places. They purchased their cattle in Texas for goods, and drove them to one or the other vashery according to circumstances, and thus continued purchasing, and the natural increase of the cattle made the stock very large on each. Emanuel Procella kept the Ormegas vachery, and continued to live there, as I am informed, to the day of his death. The vashery on the La Nana was continued many years after 1812, but how long I can't say, but understood, that in consequence of giving out of the cane the range became poor, and the stock was removed from there to the Ormegas, which has been continued to this day, and has now upon it the descendants of the original stock, as I am informed and believe, and know that they still bear the original mark. I think of nothing further, and can only repeat what I have before said under the preceding interrogatories.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested, directly or indirectly, in the event of this suit, and shall not gain or lose whichever way this cause may be decided. I am not connected in business or otherwise with the petitioners or other persons, through whom they [set] up their title, except that I am the brother-in-law of the deceased Davenport.

To the 2d cross interrogatory. Can give no other answer to this interrogatory than I have already given to the third direct interrogatory.

To the 3d cross interrogatory. I can give no further answer to this interrogatory than I have already given to the fifth direct interrogatory.

To the 4th cross interrogatory. I mean by character and reputation, such as has always existed, so far as my knowledge extends, in regard to these two tracts in this community, and wherever they are known and spoken of; cannot state from whom I have heard it, but have no recollection of ever having heard any other opinion expressed, but that they were good, valid, and perfect grants.

To the 5th cross interrogatory. Can give no further answer than that already given to the eleventh direct interrogatory.

To the 6th cross interrogatory. I know the facts inquired of in the 13th direct interrogatory from common repute, and from having seen grants from the commandants at the post of Nacogdoches, from 1794 to 1804. I lived in the parish of Natchitoches; was engaged in no busi-

ness in particular; don't know that the power of the military and civil commandants and lieutenant governors was in writing or print; cannot cite any particular grant made during that period, but know that the military and civil commandants were in the habit of making grants or concessions of land to any one that made application; lands in that day were had very cheap, and the Spanish government was anxious to settle the country, and it would give land to any one that would settle upon it. The Spanish government at that day never sold its lands, but gave them away generally in such form and quantity as was asked for. I know the form or mode of making grants from the practice of the country at the time, from what I have been told, and from having seen different grants; such grants were generally esteemed valid.

To the 7th cross interrogatory. I have no papers in my possession, and can give no other answer than I have already given to the 15th and 16th direct interrogatory.

(Signed,) PIERRE N. GAGNON.

Sworn to and subscribed before me, at the town of Natchitoches, this 28th day of April, A. D. 1845.

(Signed,) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

And I, the said justice of the peace, do hereby certify, that I have taken the above depositions of witnesses therein named, and that I have reduced the same to writing in their presence respectively; and have caused each of them to subscribe the same in my presence.

In witness whereof I have hereunto affixed my private seal, having no seal of office, at the town and parish of Natchitoches, on the day and year above written.

Given under my hand, this 28th day of April, A. D. 1845.

[SEAL.] (Signed,) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

(*Copy of document "A," referred to in the 3d direct interrogatory.*)

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, February 22d, 1841.

SIR: You are hereby authorized and required to survey, measure, and mark the following claims, to wit:

The claims reported by the register and receiver of the southwestern district, in their report dated November 1st, 1824, under No. 180, in favor of Sam'l Davenport, heirs and representatives of Ed. Murphy, deceased, heirs and representatives of Luther Smith, deceased, and heirs and representatives of W. Barr, deceased, claiming by virtue of a grant approved and signed by Don Jose Maria Guadiana, commandant of the post of Natchitoches, on the 4th August, 1798, in favor of Edward Murphy, for four leagues square, on the public road from Natchitoches to Gaines' ferry, at a place called La Nana, "having for

its centre the prairie which joins the bayou of said 'La Nana,' to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie;" and under No. 181 of same report, in favor of the same claimants, "by virtue of a concession signed by Bernado Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jacinto Mora," "containing six square leagues, equal to 207,360 acres."

You will be careful to take connexions to all the lines of the public surveys, so that the said claims may be represented on the township maps, and that the areas of the adjacent tracts may be computed, and return separate plats and certificates of survey, (in duplicate,) and also the original field notes, to this office; that such action may be had thereon as may be authorized [by] law, and the instructions relative to claims reported, but not yet finally acted on, by Congress.

As this land has already been surveyed for the United States in square sections, you will not be entitled to compensation from this office, it being intended that the expense thereof should be paid by the claimants. I am, sir, your obedient servant,

(Signed,) H. WILLIAMS,
Surveyor General, Louisiana.

To GEO. S. & WM. T. WALMSLEY, *deputy surveyors.*

And on the twenty-first day of February, 1846, the following entry was made on the minutes, to wit:

SATURDAY, *February* 21, 1846.

Present, the hon. T. H. McCaleb.

YATES AND MCINTYRE
vs.
THE UNITED STATES. } No. 5.

This cause being called, Messrs. Peyton and Baldwin appeared for petitioners, and the United States district attorney for respondents; further evidence was offered on behalf of petitioners; the cause was then continued till Tuesday, the 24th instant.

And on the further hearing of the cause, February 24th, 1846, the following memorandum was, by order of the court, made by the clerk, and placed upon the record, to wit:

February 24, 1846.

Petitioners offered in evidence two exemplifications, marked "A A," and "B B," from the land office at Opelousas.

The counsel for respondents objected to the above documents, on the ground that they are not the best evidence which the nature of the case admits of; that it is secondary evidence; that they are copies of copies, and not legal evidence. The court receives them subject to further consideration.

The document marked "A A," above alluded to, is in the words and figures following, to wit: (Spanish.)

LAND OFFICE AT OPELOUSAS, LA.,
March 19*th*, 1845.

I, the undersigned, register of the land office for the southwestern district, for the State of Louisiana, at Opelousas, and in charge of the archives of said office, do hereby certify the foregoing to be a full, correct, and faithful transcript of the Spanish document, in file and belonging to said office, and relating to the claim of Davenport, Barr, Smith, and Murphy, to the Las Ormigas tract, numbered 181, in the report of the register and receiver of 1st November, 1824.

In faith whereof I have hereunto set my hand and private seal of office on the day above written.

[SEAL.] (Signed) P. HEBRARD, *Register.*

Document marked "D D" filed with the foregoing document "A A," and being a translation of a portion of said document A A, beginning at *eighteen* line on page 236, and ending at the 244 line, page 244, of this transcript.

D D.—*Translation.*

In the town of our Lady of the Pillar of Nacogdoches, this 22d day of the month of July, 1805, before me, Don Dionisio Valle, lieutenant of cavalry, and military and civil commandant of the said town, and in presence of the three witnesses assisting me, and undersigned, with whom I act in default of a notary public, there being none in this jurisdiction, appeared Mr. Jacinto Mora, of this neighborhood, who declared that he had sold, and does sell really, to Don William Barr & company, a tract of land, of which he is owner, as shown in the document duly authenticated, which he exhibits and is annexed, within the boundary and jurisdiction of said town of Nacogdoches, situated twenty-five leagues distant from it, in the place called Las Ormigas, on the eastern bank of the river Sabine; which tract of land is the same which was granted to him by this government, on the 14th of November, 1795, and for the purposes set forth in his petition, and in which he sets forth the circumstances of the land, its boundaries, distances, and other things relating to the same; all which appear by the said concession, and the possession which has been given of said tract of land, as appears by said instrument. He makes to the said Don William Barr and company the said sale, free from all incumbrances, and for the price of two hundred dollars, in goods at the current price in this town, and fifty in specie; which entire sum he has received in hand, and to his satisfaction, for which he renounces the exception of the non numerata pecunia and laws relative to the delivery, and gives a formal acquittance for the same. In consideration whereof, the vendor desists from the property, possession, enjoyment, and dominion, and other real and personal action, to and in the said land, according as it is conceded; and all which he cedes and transfers to the purchasers, that they may enjoy it as their property, possess or alienate the same at their discretion, by this writing, which I execute in sign of real delivery, and with which they acquired the pos-

session, without other proof, and binds himself to make good this sale in sufficient form, or as may be most proper, with his property present and future, with clause of warranty. And the said Don William Barr, being present, accepted for himself and company this instrument of sale of said tract of land, in the terms in which it is sold and delivered, of which he gives a formal acknowledgment.

In testimony whereof, the vendor did not sign, because he is blind, but asked the citizen Don Jose Caytano de Tepida to sign for him; and the purchaser also signed with the aforesaid witnesses, and me, the commandant, who certify that I know the parties.

DIONISIO VALLE.

At the request of Jacinto Mora, I sign.

JOSE CAYTANO DE TEPEDA.

GUILLERMO BARR.

(Witness) MANUEL BUSTAMENTE,
(Witness) BERNARD MARTIN DESPALLIER,
(Witness) JOSE PENIDA.

(The translation of the other portions of said document "A A" appears in the petition, from the line on page to the line on page of this transcript.)

The document marked "B B," above mentioned, is in the words and figures following, to wit: (Spanish)

LAND OFFICE, OPELOUSAS, LA.,
March 19*th*, 1845.

I, the undersigned, register of *register of* the land office, for the southwestern district of the State of Louisiana, at Opelousas, and in charge of the archives of said office, do hereby certify, that the foregoing nine pages contain a true, correct, and faithful transcript of the Spanish documents on file and belonging to this office, and relating to the claim of Davenport, Murphy and Smith, to the La Nana tract, and numbered 180, in the report of the register and receiver of the 1st November, 1824.

[SEAL.] In testimony whereof I have hereunto set my hand and private seal of office on the day above written.

Signed, P. HEBRARD, *Register.*

(Document marked CC, filed with the foregoing document BB, (and being a translation of a portion of said document "BB," beginning at the line on page , and ending at the line on page , of this transcript,) is in the words and figures following, to wit:)

CC.—(*Translation.*)

In the town of Nacogdoches, this third day of the month of November, in the year 1798, before me, Don Jose Maria Guadiana, cornet of cavalry and military and civil commandant in said town, appeared Don Edward Murphy, and declared that he had ceded, and does cede, all

title of property which he has in the land and rancho de San Pedro de la Nana, as appears by the preceding document, in favor of the commercial partnership which exists between the said Murphy, Don William Barr, Don Samuel Davenport, and Mr. Smith; the said Don Edward Murphy expressing that, for himself, his children, his heirs and successors, he renounces forever all right over said tract of land and rancho, and cedes and transfers it to the aforesaid company.

In testimony whereof he signed with me, the said judge, and two assisting witnesses, with whom I act in default of a notary public, and on the present common paper for want of the proper sealed or stamped paper; all which I certify.

Signed, JOSE MA. GUADIANA.

Witness—

JOSE LUIS DE LA BEGA,
PEDRO LANA.

(The translation of the other portions of document "BB" appears in the petition from the line on page to the line on page of this transcript.)

(And on the further hearing of the cause, February 24th, 1846, the following memorandum was, by order of the court, made by the clerk, and placed upon the record, to wit:)

Petitioners' counsel further offered two certified copies from the general land office in Texas, marked H and I. The U. S. district attorney objects to the papers now offered (viz., H and I) in support of the La Nana and Las Ormigas claims, on the same ground as above stated in respect to documents AA and BB, received by the court on the same terms as the documents marked "AA" and "BB."

(The document marked H, above mentioned, is in the words and figures following, to wit:) (Spanish.)

I, Joseph Baker, Spanish clerk of the general land office of the Republic of Texas, duly sworn and bonded, do hereby certify, that the above is a correct copy of a document on file in this office, the words "y por precio de dosientos pesos en generos" having been interlined previous to attaching this certificate.

Austin, May 28th, 1845.

(Signed) JOSEPH BAKER,
Spanish clerk, General Land Office.

GENERAL LAND OFFICE,
Austin, 28th May, 1845.

I, Thomas Wm. Ward, commissioner of the general land office of the Republic of Texas, do hereby certify, that Joseph Baker, whose name is signed to the above certificate, is the Spanish clerk of said office, and that as such his acts are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand, and affixed the [SEAL.] impress of the seal of said office, the day and date above written.

(Signed) THOMAS WM. WARD, *Commissioner.*

REPUBLIC OF TEXAS, *Harris county, ss:*

I, the undersigned, acting Secretary of State for the Republic of Texas, do certify, that Thomas Wm. Ward, whose name is subscribed to the foregoing certificate, is, and was at the date of said certificate, commissioner of the general land office of this Republic; also, that the seal affixed to his said certificate is the seal of the general land office aforesaid; also, that the foregoing attestation is in the usual mode, and that full faith and credit are due to the same as an official act, and to all his acts as such commissioner.

In testimony whereof I hereunto affix my name and private seal, (being absent from the place where my official seal is kept,) this second day of June, anno domini 1845.

(Signed) EBENEZER ALLEN. [SEAL.]

The undersigned, chargé d'affaires of the United States, hereby certifies, that Ebenezer Allen, whose name is subscribed to the foregoing certificate, was at the time of signing the same the acting Secretary of State of Texas, and that full faith and credit are due to his acts as such.

In testimony whereof the undersigned hereto affixes the private seal of his office, having no public one, and subscribes his name, this 4th day of June, 1845, at Galveston, in Texas.

[SEAL.]

(Signed) A. J. DONELSON.

GENERAL LAND OFFICE,
Austin, August 31*st*, 1845.

I, Thomas Wm. Ward, commissioner of the general land office of the Republic of Texas, do hereby certify, that the above and foregoing exemplification is a true copy of a title on file in this office.

In testimony whereof I have caused the seal of the general land office aforesaid to be hereunto affixed, the day and date above written.

[SEAL.]

(Signed) THOS. WM. WARD.

REPUBLIC OF TEXAS,
Department of State.

I, the undersigned, Secretary of State of the Republic aforesaid, do hereby certify, that Thomas Wm. Ward, whose name is subscribed to the instrument of writing hereto annexed, is, and was at the time of signing the same, the commissioner of the general land office of the Republic of Texas; also, that the seal affixed thereto is the seal of the general land office, and that full faith and credit are due his official acts as such.

In testimony wherof the official seal of the department is hereunto affixed.

Done at Washington, this fourth day of September, anno domini 1845, and of the independence of the Republic the tenth.

[SEAL.]

(Signed) EBEN'R ALLEN.

CONSULATE OF THE UNITED STATES OF AMERICA,
At Galveston, Republic of Texas.

I, Elisha A. Rhodes, consul of the United States of America, do hereby certify, that the honorable Ebenezer Allen, whose signature and official seal appear to the annexed certificate, is, and was at the time the said certificate bears date, (to wit,) the fourth day of September, (inst.,) the Secretary of State of the Republic of Texas, &c.

In testimony whereof I hereunto subscribe my name, and affix the seal of this consulate, at Galveston, the 12th day of September, in the year of our Lord one thousand eight hundred and forty-five, and of the independence of the United States the seventieth.

[SEAL.]

(Signed) E. A. RHODES,
Acting U. S. Consul.

Translation of part of the foregoing document H, viz., of the transfer of the Ormigas tract from Jacinto Mora to Wm. Barr & Co., and of the certificate of Guadiana; also, of the petition of Barr & Davenport, and of the order of Salcedo thereon, filed Feb. 25th, 1846.

In the town of our Lady of the Pillar of Nacogdoches, on the 22d of July, 1805, before me, Don Dionisio Valle, lieutenant of cavalry, commandant, military and civil, of the said town, and in presence of the three witnesses subscribed assisting me, with whom, for want of a notary public, there being none in this jurisdiction, I act, appeared Jacinto Mora, of this place, who says that he has sold, and does by these actually sell, to William Barr & Co., to wit, a tract of land of which he is owner, as set forth in the authenticated document which he exhibits, and which is annexed, within the jurisdiction and limits of this town of Nacogdoches aforesaid, situate at the distance of 25 leagues from it, in the district called Las Ormigas, on the eastern bank of the river Sabine; which tract of land is the same granted him by this Government on the 14th of November, 1795, and for the purposes which he proposed in his petition of the aforesaid act, and in which he shows the situation of the land, its points, distance, &c., which compose it; with all which, as is customary in the concession and possession which have been given him of the said tract of land, as appears by the same instrument of concession aforesaid, he makes to William Barr & Co. the said sale as free from incumbrance, there being none, and for the price of $200 in merchandise, at the rates current of this town, and $50 in money; which full sum he has received in cash, at his disposal, for which he renounces the non numerata pecunia, the proof of and laws relating to tradition, and he grants a formal receipt therefor; in consideration whereof the seller divests himself of proprietorship, possession, useful ownership and dominion, with the actions, real and personal, pertaining to said tract of land, according to the grant of it; all of which he transfers to the buyer, and to whomever may have his rights and cause, to hold or alienate, at his pleasure, as owner by this instrument of writing, which he executes in sign of real delivery, and with which he is

considered to have acquired possession, without any other proof, of which he is released; and binds himself to make good this sale, in sufficient form, or as may be most proper, with his property, both present and future, with the clause of warranty, with executory authority and submission of justice, and the renunciation of the laws in his favor, with the general one, in form, which prohibits it; and the aforesaid William Barr, being present, accepted this instrument of writing for himself & Co., received as purchased the aforesaid tract of land, and executed a formal receipt.

In testimony whereof the vendor did not sign, because he is blind, but requested the citizen, Don Jose Cayetano de Tepeda, to sign in his name; and the purchaser signed also, with the aforesaid assisting witnesses and myself, the aforesaid commandant, who certify that I know the parties contracting.

DIONISIO VALLE,

At the request of Jacinto, I,
JOSE CAYETANO DE ZEPEDA,
WILLIAM BARR.

MANUEL BUSTAMENTE,
BERNARDO MARTIN DESPALLIER,
JOSE PINEDA,
Assisting witnesses.

This copy agrees with its original, which remains in the archives under my charge, to which I refer, and from which I, Don Jose Maria Guadiana, lieutenant of cavalry and military and civil commandant, caused it to be copied, corrected, and compared. It is a certain, true, compared, and corrected copy; and at the making of it were present, as instrumental witnesses, the citizens Don Jose de la Bega, Jose Flores, Jose Ignacio Y. Barbo; and, for its proper authentication, I, the aforesaid lieutenant of cavalry, signed it with two assisting witnesses, with whom I act for want of a notary public, this 14th of April, 1810.

JOSE MARIA GUADIANA.

JOSE PINEDA,
MANUEL BUSTAMENTE,
Assisting witnesses.

To his excellency the GOVERNOR:

We, Barr and Davenport, Indian traders, inhabitants of this town, in order better to proceed in the acquisition of our rights, showing that the sale of the lands is evidenced by the duly annexed document, itself descriptive of said lands, and executed by Jacinto Mora, also a resident of this town, pray your excellency, should you find said document sufficient, to approve and sanction it by a judicial decree, in order to secure to us, our heirs, representatives, &c., the title and ownership to said lands, with all entries, exits, uses, customs, servitudes, &c. Wherefore we make the necessary oaths, justice, &c.

BARR & DAVENPORT.

Let all proceedings on this petition be suspended, and the superior authority be consulted, inasmuch as the lands of which it treats are situated in the neutral territory, on the eastern bank of the Sabine.

Order. SALCEDO.

(Document I, above mentioned, relating to the La Nana tract, is in the words and figures following, to wit: Spanish.)

I, Joseph Baker, Spanish clerk of the general land office of the republic of Texas, do hereby cetify, that the foregoing is a correct copy of a document on file in said office; the word "hizo" having been interlined previous to attaching this certificate.

AUSTIN, *May 28th*, 1845.

(Signed,) JOSEPH BAKER,
Spanish clerk, general land office.

GENERAL LAND OFFICE,
Austin, May 28th, 1845.

I, Thos. Wm. Ward, commissioner of the general land office of the republic of Texas, do hereby certify, that Joseph Baker, whose name is signed to the above certificate, is the Spanish clerk of said office, duly sworn and bonded, and that as such his acts are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand, and affixed the impress of the seal of said office, the day and date above written.

[SEAL.]

(Signed,) THOS. WM. WARD, *Commissioner.*

REPUBLIC OF TEXAS, *Harris county, ss:*

I, the undersigned, acting Secretary of State for the republic of Texas, do certify, that Thos. Wm. Ward, whose name is subscribed to the foregoing certificate, is, and was at the date of said certificate, the commissioner of the general land office of this republic; also, that the seal affixed to his said certificate is the seal of the general land office aforesaid; also, that the foregoing attestation is in the usual mode, and that full faith and credit are due to the same, and to all his official acts as such commissioner.

In testimony whereof I hereunto affix my name and private seal, (being absent from the place where my official seal is kept,) this second day of June, anno domini 1845.

(Signed) ABN'R ALLEN. [SEAL.]

The undersigned, chargé d'affaires of the United States, hereby certifies, that Ebenezer Allen, whose name is subscribed to the foregoing certificate, was at the time of signing the same the acting Secretary of State of Texas, and that full faith and credit are due to his acts as such.

In testimony whereof the undersigned hereto affixes the private seal of his office, having no public one, and subscribes his name, this 4th day of June, 1845, at Galveston, in Texas.

[SEAL.]

(Signed) A. J. DONELSON.

GENERAL LAND OFFICE,
Austin, August 31st.

I, Thomas William Ward, commissioner of the general land office of the republic of Texas, do hereby certify, that the above and foregoing exemplification is a true and correct copy of a title on file in this office.

In testimony whereof I have caused the seal of the general land office aforesaid to be hereunto affixed, the day and date above written.

[SEAL]

(Signed,) THOS. WM. WARD.

REPUBLIC OF TEXAS, *Department of State.*

I, the undersigned, Secretary of State of the republic aforesaid, do hereby certify, that Thos. Wm. Ward, whose name is subscribed to the instruments of writing hereto annexed, is, and was at the time of signing the same, the commissioner of the general land office of the republic of Texas, and that the seal affixed thereto is the seal of the general land office, and that full faith and credit are due his official acts as such.

In testimony whereof the official seal of the department is hereunto affixed.

Done at Washington, this fourth day of September, anno domini 1845, and of the independence of the republic the tenth.

[SEAL.]

(Signed,) EBNR. ALLEN,
Consulate of the United States of America,
at Galveston, republic of Texas.

I, Elisha A. Rhodes, acting consul of the United States of America, do hereby certify, that the honorable Ebenezer Allen, whose signature and official seal appear to the annexed certificate, is, and was at the time the said certificate bears date, to wit, the fourth day of September, (instant,) the Secretary of State of this republic.

In testimony whereof I hereunto subscribe my name, and affix the seal of this consulate, at Galveston, the 12th day of September, in the year of our Lord one thousand eight hundred and forty-five, and of the independence of the United States seventieth.

[SEAL.]

(Signed.) E. A. RHODES,
Acting U. S. Consul.

(Translation of part of the foregoing document I, viz., of the transfer from Edward Murphy to Wm. Barr & Co., and of the certificate of Guadiana; also of the petition of Barr and Davenport, and of the order of Salcedo thereon; filed February 25th, 1846.)

In the town of Nacogdoches, this 3d of November, 1798, before me, Don Jose Maria Guadiano, cornet of cavalry, military and civil commandant of said town, appeared Edward Murphy, who declared that he had ceded, and does by these presents cede, all the title of property,

which he has in the land and stock farm of San Pedro de la Nana, which is referred to in the preceding document, in favor of the commercial company which exists between said Murphy, William Barr, Samuel Davenport, and Mr. Smith; said Edward Murphy declaring, that for himself, his children, heirs, and successors, he renounces forever all right to said land and stock farm, and transfers it to said company; and for its proper authentication he signed it with me, the aforesaid judge, and two assisting witnesses, with whom I act for want of a notary public, and on this common paper, there being none stamped suitable. All which I certify.

JOSE MARIA GUADIANA,
EDWARD MURPHY.

Assisting witnesses: PEDRO LARA,
JOSE LUIS DE LA BEGA.

This copy agrees with its original which remains in the archives under my charge, to which I refer, and from which I, Don Jose Maria Guadiana, lieutenant of cavalry, and military and civil commandant, caused it to be copied, corrected, and compared. It is a certain, true, compared, and corrected copy, and at the making of which were present, as instrumental witnesses, the citizens Don José de la Bega, José Flores, José Ignacio Y. Barbo; and for its proper authentication I, the aforesaid lieutenant of cavalry, signed it, with two assisting witnesses, with whom I act for want of a notary public, this 15th of April, 1810.

JOSE MARIA GUADIANA.

Assisting witnesses: JOSE PINEDA,
MANUEL BUSTAMENTE.

To his excellency the Governor:

We, Barr & Davenport, Indian traders, inhabitants of this town, in order better to proceed in the acquisition of our rights, showing that the duly annexed document evidences the transfer of the tract of land called San Pedro de la Nana, made to us by Don Edward Murphy, pray that your excellency will consider it legally proved, and in consequence approve, and by the exercise of your judicial authority give it greater strength and validity, and that this original petition be delivered to us, with the decree necessary, in order that we may use them for our purposes. Wherefore we make the necessary oaths, &c.

BARR & DAVENPORT.

Let all proceedings on this petition be suspended, and the superior authority be consulted, inasmuch as the lands of which it treats are situated in the neutral territory, on the eastern bank of the Sabine.

SALCEDO.

Order.

And on the further hearing of this cause, on the 24th of February, 1846, the following memorandum was made by the court, and ordered to be placed on the record, in the words and figures following, to wit:

Petitioners' counsel further offered a certified copy of a judicial partition, marked K.

Document K.

Petition filed March 5th, 1831.

ELIZA RUSSELL
vs.
Succession SMITH, BARR & MURPHY.

To the honorable the judge of the court of probates, in and for the parish of Natchitoches, in the State of Louisiana.

The petition of Eliza T. Russell, assisted and authorized to bring the present action by her husband Sam'l P. Russel, and both of the said parish of Natchitoches, most respectfully represents, that, at the present time, there exists a large quantity of landed property in community, between your petitioner, as one of the heirs of Samuel Davenport, deceased, and the succession of the deceased Edward Murphy, the succession of the deceased William Barr, and the succession of the deceased Luther Smith; that said property is situated in the said parish of Natchitoches, and consists in two certain tracts, the one containing six leagues square, and known by the name of the Ormigas tract, and the other tract containing four leagues square, and known by the name of the Laland tract.

And your petitioner represents, that the succession of the said Samuel Davenport is represented by her as aforesaid, and her brother John Bernard Benigno Davenport; that the succession of the said Edward Murphy is represented by the heirs and legal representatives of said Murphy, to wit, Mary Aspasia Gayard, wife of Raymond Pierre Gayard, of the parish of Orleans, and Armand Lauve, junior, of the parish of Natchitoches, represented by Armand Lauve, senior, as his curator ad bona; by Marie Eugenie Tauzin, wife of Lewis Tauzin; by Armand Lauve, senior, as curator ad bona of Edward Murphy, and as tutor of Ophelia and Adelle Murphy; and by Victorin Metoyer, as tutor of Dennis Murphy; by Robert Thompson, representing the succession of said William Barr; and that the succession of said Luther Smith is represented by Samuel Smith; and that all the said persons representing the aforesaid successions are residents of the said parish of Natchitoches, except the said Mary Aspasia Gayard, and her said husband Raymond Pierre Gayard, who are residents of the parish of Orleans aforesaid. And your petitioner represents, that she is desirous that a judicial partition of said land be made in kind, and according to law, and within the shortest possible delay, and that the same be divided into four lots of equal value, by experts appointed for that purpose, and that Bernard Leonard and William Callaghan be appointed experts to divide said property. The premises considered, your petitioner prays that your honor may be pleased to grant an order for the partition of said property as aforesaid; and that said Leonard and Callaghan, both residents of said parish of Natchitoches, be appointed and notified

as experts to divide said property into lots as aforesaid, and that said John Bernardo Benigno Davenport, the said Armand Lauve, senior, the said Victorin Metoyer, the said Marie Eugenie Tauzin, and her husband Lewis Tauzin, together with the said Robert Thompson and Samuel Smith, all of said parish of Natchitoches, and the said Mary Aspasia Gayard, and her said husband Raymond Pierre Gayard, both of the said parish of Orleans, be duly cited to appear and answer this petition; that said property be divided as prayed for, and that your honor be pleased to homologate the same, and to extend general relief in the premises; and, as in duty bound, etc.

(Signed) RICH'D FENNESSEY,
Atty. for petitioner.

Order on above petition.

COURT OF PROBATES,
Parish of Natchitoches, March 5th, 1831.

Let the parties in community with the petitioner be cited to show cause, if any they have, why a partition of the common property in the petition mentioned should not be ordered as prayed for.

(Signed) JOHN C. CARR,
Judge of probates of the parish of Natchitoches.

Return.

We, the undersigned, acknowledge service of the within petition, and waive the formalities of citation. March 7th, 1831.

(Signed) J. B. B. Davenport, Samuel Smith, Ad. Lauve, tutor of Armand Lauve, jun'r, and of Adelle and Ophelia Murphy, and curator ad bona of Edward Murphy, Robert Thompson, representing the heirs of William Barr, Jn. Laplace, attorney in fact of Aspasia Gaillard and R. P. Gaillard.

Citation.

ELIZA RUSSELL
vs.
Succession SMITH, BARR & MURPHY.

In the probate court, parish of Natchitoches, State of Louisiana.

To Victorin Metoyer, tutor of Dennis Murphy, of the parish of Natchitoches:

You are hereby cited to appear in the office of the clerk of the said court, in the town of Natchitoches, in the parish aforesaid, and comply with the prayer of the annexed petition, or file your answer thereto, in writing, in the said office, on the fourth Monday in March instant, if ten days shall remain between the time of the service hereof and the said fourth Monday in March; but if so many days shall not remain, then in ten days after the service hereof.

Witness the honorable John C. Carr, judge of the said court, this eighth day of March, one thousand eight hundred and thirty.

(Signed) C. E. GREENAUX,
Clerk of said court.

Return on above citation.

Served the within citation, by delivering a copy, with a copy of petition annexed, this 16th day of March, 1831.

(Signed) ASA B. EDWARDS,
Deputy Sheriff.

Citation.

ELIZA RUSSELL
vs.
Succession SMITH, BARR, and MURPHY.

In the probate court, parish of Natchitoches, the State of Louisiana, to Marie Eugenie Tauzin and Louis Tauzin, her husband, of the parish of Natchitoches:

You are hereby cited to appear in the office of the clerk of the said court, in the town of Natchitoches, in the parish aforesaid, and comply with the prayer of the annexed petition, or file your answer thereto in writing, in the said office, on the fourth Monday in March, instant, if ten days shall remain between the time of the service hereof and the said fourth Monday in March; but, if so many days shall not remain, then in ten days after the service hereof.

Witness the honorable John C. Carr, judge of the said court, this eighth day of March, one thousand eight hundred and thirty.

(Signed) C. E. GRENEAUX,
Clerk of said court.

Return on above citation.

March 14th, 1831. Served a copy of the within citation, with a petition annexed, on Marie Eugenie Tauzin and Lewis Tauzin, by leaving it with Mrs. Mary Tauzin, wife of Mr. Eugene Tauzin, at the domicil of Lewis Tauzin. Mrs. Mary Tauzin is a white woman above the age of 14; known to me personally.

(Signed) HENRY JONES, *Deputy Sheriff.*

March 28th, 1831, continued.
April 27th, 1831, continued.
June 3d, 1831, continued.
June 27th, 1831, continued.
August 1st, 1831, continued.
September 1st, 1831, continued.
September 26th, 1831, continued.
October 24th, 1831, continued.

November 28th, 1831, continued.
December 26th, 1831, continued.
January 23d, 1832, continued.
February 27th, 1832, continued.

Moi, Armand Lauve, de la paroisse des Natchitoches, en ma qualité de tuteur de mon fils Armand Lauve, et d'Edouard Murphy, Ophilia Murphy, et Adelle Murphy, enfans mineurs d'Edouard Cesaire Murphy, décédé: J'autorise Monsr. Charles E. Greneaux, de la dite paroisse à me representer dans le partage des terres provenant des successions Murphy, Smith, Barr, et Davenport, et connues sous le nom de las Ormigas et La Nana, lui donnant pouvoir et l'autorisant par le present à signer tous actes necessaires pour effectuer le dit partage d'une maniere definitive; promettant et m'obligeant en ma susdite capacité de tuteur, de ratifier tout ce que mon dit fondé de pouvoir pourrait faire à ce sujet, si j'en étais requis. Donné aux Natchitoches, ce 15th Mars, 1832. (Signé) AR'D LAUVE,
Tuteur d'Armand Lauve, fils, et d'Edouard Murphy,
Ophélia Murphy, et Adelle Murphy.

March 27th, 1832, judgment by default.

Order.

March 31st, 1832, B. Leonard and James Bludworth, appointed experts to appraise the land in the petition mentioned, and that a partition of the same take place as prayed for.

Decree.

ELIZA RUSSELL
vs.
SUCCESSION OF SMITH, Barr, and Murphy.

Probate court.

In this case, it appearing to the court that all parties interested have been duly cited to answer the plaintiffs' petition, and the judgment by default not having been set aside, it is ordered, adjudged, and decreed, that a judicial partition be made of the two tracts of land, called the La Nana tract and the Las Ormigas tract, as prayed for in plaintiffs' petition, by dividing them into four lots of equal value, as will be designated in the plats thereof. It is further ordered, decreed, and adjudged, that Bernard Leonard and James Bludworth, esquires, be, and they are hereby, appointed experts, to appraise said tracts of land, and to divide them into four lots of equal value, as prayed for in the petition; and let the lots, after having been made by the experts, be drawn for by the appropriators as follows: Four tickets, numbered one, two, three, and four, are to be deposited in a box, and each proprietor is to draw, and the number he may draw shall be adjudged to the person drawing the

same; and let the partition be made before Richard Fennessey, esqr., notary public, in and for the parish of Natchitoches. Done in open court, this thirty-first day of March, 1832.

(Signed) JOHN C. CARR,
Judge of the court of probates of the parish of Natchitoches.

Power of attorney.

Know all men by these presents, that we, Marie Eugenie Tauzin, wife of Lewis Tauzin, of the parish of Natchitoches, one of the heirs at law of Edward Murphy, late of said parish, deceased, and Louis Tauzin, her husband, also of said parish, do hereby constitute and appoint Mr. Charles E. Gleneaux, of said parish, our true and lawful attorney in fact, to represent us before Richard Fennessey, esq., a notary public, in and for the parish of Natchitoches, in a partition to be made between the heirs and legal representatives of Samuel Davenport, deceased; the legal representatives of heirs of William Barr, deceased; the heirs and legal representatives of Luther Smith, deceased; and the heirs and legal representatives of Edward Murphy, deceased, by order of the honorable court of probates of the parish of Natchitoches; and we do hereby authorize our said attorney in fact to sign all acts, make all agreements, and do all other things necessary in the matter of said partition, as fully as we could do were we ourselves present; and we give our said attorney in fact full and complete power to do what he may deem best for our interest in said partition.

Natchitoches, April 2d, 1832, in presence of the undersigned witness—

Signed, T. E. TAUZIN, *témoin.*
EUGENIE TAUZIN,
Marque
X de LOUIS TAUZIN.
ordinaire.

Be it remembered, that upon this second day of April, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States of America the fifty-sixth, in pursuance of an order or decree of the honorable the court of probates of the parish of Natchitoches, in the State of Louisiana, bearing date the thirty-first day of March, in the year of our Lord one thousand eight hundred and thirty-two, I, Richard Fennessey, notary public, acting in and for the parish of Natchitoches aforesaid, duly commissioned and sworn as such, and at my office in the said parish of Natchitoches, and in the presence of Fenelon W. Ragland and Benjamin F. Chapman, both competent and subscribing witnesses, and residents of said parish, did cause to come before me Eliza T. Russell and Samuel P. Russell, both of said parish; she, the said Eliza T. Russell, being hereunto assisted and authorized by her husband, the said Samuel P. Russell; also, John Bernardo Benigno Davenport, of said parish; they, the said Eliza and John, being the legal heirs of Samuel Da-

venport, of said parish, deceased. Also, personally came and appeared Robert Thompson, of Washington county, in the State of Pennsylvania, as the attorney in fact of the legal heirs of the deceased William Barr, to wit, John Huston and his wife Nancy, of Washington county, aforesaid; David P. Kennedy and his wife Mary; John M'Night and his wife Nancy; Wm. Dustin and his wife Acksah, all of the county of Alleghány, in the said State of Pennsylvania. Also appeared John La Place, of the said parish of Natchitoches, as attorney in fact of Mary Aspasia Gaillard, and of her husband Raymond Pierre Gaillard, both of the city of New Orleans. Also appeared Charles E. Greneaux, as the attorney in fact of Marie Eugenie Tauzin, and her husband Lewis Tauzin, of the said parish of Natchitoches, and of Armand Lauve, senior, curator ad bona of his son, Armand Lauve, junior, and curator ad bona of Edward Murphy, and tutor of Ophelia and Adelle Murphy; and also appeared Victorine Metoyer, of said parish of Natchitoches, as tutor of Dennis Murphy; they, the said Mary Aspasia Gaillard, Marie Eugenie Tauzin, Armand Lauve, junior, Edward, Ophelia, Adelle, and Dennis Murphy, being the legal heirs of the deceased Edward Murphy, of said parish of Natchitoches. Also appeared Samuel Smith, of Little Falls, Herkimer county, in the State of New York, representing, as heir and owner, the succession of Luther Smith, of bayou Tunica, parish of West Feliciana, in the said State of Louisiana. Whereupon, I, the said notary, in presence of the witnesses and parties aforesaid, did proceed to make an inventory of all the property in common between the said heirs of Samuel Davenport, William Barr, Edward Murphy, and Luther Smith, all deceased; said property being situated in said parish of Natchitoches, and of which said property Bernard Leonard and James Bludworth, esqs., both of the said parish of Natchitoches, were appointed experts by the honorable the court of probates aforesaid, to appraise the same, and to divide it into four lots of equal value, according to law; and said experts being duly sworn, said inventory and appraisement is as follows, that is to say, one tract of land, situate in said parish, bounded on the west by the river Sabine, and known by the name of the Ormigas tract, represented by a plat of survey dated July second to August fourteenth, signed by Wm. McLister, dep. surveyor, Peter Young and Thomas Ford, chain carriers, and which said tract is by said experts divided into four equal parts, as follows: No. 1, one-fourth part of the said tract, in width, on the southern side of the said tract; No. 2, one-fourth part of the said tract, in width, and northerly of No. 1, and adjoining it; No. 3, one-fourth part of said tract, in width, northerly of number two, and adjoining it; No. 4, the last and most northerly fourth part of said tract, in width, and adjoining No. 3; the division lines all parallel, and running north sixty-six degrees east, and south sixty-six degrees, and west, through the whole length of the tract aforesaid to the river Sabine. Also, one other tract called the La Nana tract, represented by a plat copied from the original plat by B. Leonard, parish surveyor of the

parish of Natchitoches, signed by him, and dated November 17th, 1831, and which said last tract is by said experts divided into four equal parts, as follows: No. 1, one-fourth part of the said tract on the east side; No. 2, one-fourth part of the said tract, adjoining number one, and west of it; No. 3, one-fourth part of said tract, adjoining number two, and west of it; No. 4, one-fourth part of the said tract, adjoining number three, and westermost of the whole tract; and both which said tracts, to wit, the said Ormigas and La Nana, contain, each, the following number [of] acres, as is said, to wit, the said Ormigas tract of land, two hundred and seven thousand three hundred and sixty superficial acres, estimated at five cents per acre, and making the sum of ten thousand three hundred and sixty-eight dollars, $10,368; the said La Nana tract of land containing, as is said, ninety-two thousand and one hundred and sixty superficial acres, and appraised at five cents per acre, and making the sum total of four thousand six hundred and eight dollars, $4,608. Recapitulation of both amounts of said two tracts of land amount to the sum total of fourteen thousand nine hundred and seventy-six dollars, $14,976. Afterwards, to wit, upon the said second day of April, in the year of our Lord one thousand eight hundred and thirty-two, at said place, in presence of said parties, experts, witnesses, and notary aforesaid, the said tracts of land were divided, according to law and the will of said parties, into four lots of equal value, as follows, to wit: Number one of the Ormigas tract and number one of the La Nana tract forming the first lot, and termed lot number one; number two of the Ormigas tract and number two of the La Nana tract forming the second lot, and termed lot number two; number three of the Ormigas tract and number three of the La Nana tract forming the third lot, and termed lot number three; number four of the said Ormigas tract and number four of the said La Nana tract forming the fourth lot, and termed lot number four. And there being no more property to inventory, and no claims or debts against the succession aforesaid, all the proceedings aforesaid were closed. Whereupon the said parties, by mutual consent, proceeded to draw by lot for the lots aforesaid, and, upon examining the same, it appeared that the heirs of William Barr, represented by the aforesaid Robert Thompson, drew lot number four; that the heirs of Luther Smith, represented by the said Samuel Smith, drew lot number two; that the heirs of Samuel Davenport drew lot number one; and that the heirs of Edward Murphy drew lot number three; and there being no question or difficulty made or raised respecting the inventory or appraisement aforesaid, nor of the manner of making or drawing said lots, or respecting any other part or portion of the proceedings in the premises, and no deduction or collation to be made between the said parties, the present proceedings are therefore closed. In testimony, the said parties, experts, witnesses, and notary aforesaid, have hereunto set their hands, on the day and year first above written, and at the place aforesaid.

(Signed) Eliza T. Russell, Samuel P. Russell, J. B. B. Davenport; Robert Thompson, attorney in fact of the heirs of William Barr; John

Laplace, attorney in fact of R. P. Gaillard and his wife Marie Aspasia Gaillard; C. E. Greneaux, attorney in fact of Marie Eugenie Tauzin and her said husband Louis Tauzin, and of Armand Lauve, senior, curator ad bona of his son Armand Lauve, junior, and curator ad bona of Edward Murphy and tutor of Ophelia and Adelle Murphy; Metoyer, tutor of Dennis Murphy; B. Leonard, James Bludworth, experts; F. W. Ragland, Benjamin F. Chapman, witnesses.

RICHARD FENNESSEY,
Notary public, acting in and for the parish of Natchitoches, in the State of Louisiana.

I, Richard Fennessey, notary public in and for the parish of Natchitoches, in the State of Louisiana, do hereby certify the above and foregoing to be a true and correct copy of the original on file and of record in my office. In testimony whereof I have hereunto set my hand, and, in default of a public seal, have also hereunto affixed my private seal, bearing on the impress thereby made the letters T. A., at my office in the said parish of Natchitoches, upon this ninth day of April, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States of America the fifty-sixth.

(Signed) RICHARD FENNESSEY,
Notary public, acting in and for the parish of Natchitoches, in the State of Louisiana aforesaid.

Petition.

To the honorable John C. Carr, judge of probates in and for the parish of Natchitoches.

The petition of Eliza T. Russell, of said parish, authorized and assisted by her husband, Samuel P. Russell, respectfully represents: That on the 5th of March, 1831, she filed a petition in your honorable court, praying that a judicial partition might be made of certain property lying and being in the parish of Natchitoches, held in community by the heirs and legal representatives of her late father, Samuel Davenport; the heirs and legal representatives of Edward Murphy, late of said parish, deceased; the heirs and legal representatives of William Barr, deceased; and the heirs and legal representatives of Luther Smith, deceased. That the said property held in common consisted of two tracts of land, situate between the Red and Sabine river, and called the La Nana and Ormigas tracts.

That the thirty-first day of March last, the parties interested having been legally cited, your honorable court ordered that a partition of the property held in common be made between the parties, as prayed for, and appointed Bernard Leonard and James Bludworth, esqs., experts, to appraise the property, and divide the same into lots of equal value, and ordered the partition to be completed before Richard Fennessey, esqr., a notary public in and for the parish of Natchitoches. That the said notary proceeded, on the second day of April, instant, to complete

said partition in obedience to the order of court, the experts being present and sworn, and also all the parties interested in said partition, either in person or by attorney in fact. That the map being formed according to law, the lands were divided into four lots, and numbered one, two, three, and four; and being drawn for, it appeared that the heirs of William Barr drew No. four; the heirs of Luther Smith drew lot No. two; and the heirs of Samuel Davenport drew lot number one. That the lots were marked described on a plat of survey of the Ormigas tract, dated July 2d to August 14th, signed by Will. M. Lester, deputy surveyor; and the La Nana tract, represented by a plat copied from the original plat by B. Leonard, parish surveyor of the parish of Natchitoches, signed by him, and dated November 17th, 1831 ; both which plats are herewith filed, with a copy of the proces-verbal of the proceedings by the notary. That the partition being completed, all the parties interested, with the experts and notary, signed the proces-verbal in the presence of two witnesses. The premises considered, your petitioner prays that your honorable court would summon all the parties interested in said partition, to wit: The heirs and legal representatives of the deceased William Barr, Luther Smith, Edward Murphy, and also her brother, John B. B. Davenport, to show cause, if any they have, in ten days, why the partition made as above stated be not homologated. And, as in duty bound, will pray.

(Signed) BULLARD & SHERBURNE,
Attorneys for petitioners.

We accept service of citation of this petition.

(Signed) Samuel Smith, heir and owner; Robert Thompson, attorney in fact of the heirs of William Barr, deceased; Jn. La Place, attorney in fact of Marie Aspasia Gaillard and R. P. Gaillard; C. E. Greneaux, attorney in fact of Marie Eugene Tauzin and Louis Tauzin, and also attorney in fact of Armand Lauve, senior, tutor of his son Armand Lauve, junior, and of Edward Murphy, Ophelia, and Adelle Murphy; J. B. B. Davenporte.

COURT OF PROBATES, *parish of Natchitoches.*

April 26th, 1833.

It appearing to the court that the parties interested in this cause have been duly notified, and no opposition having been made to the partition made between them, it is therefore adjudged and decreed, that the proceedings in the said partition, which took place before Richard Fennessey, esqr., notary public, be, and the same are hereby homologated.

(Signed) C. E. GRENEAUX,
Judge of probates.

I, Frederick Williams, clerk of the probate court in and for the parish of Natchitoches, do hereby certify the above and foregoing to be a

Laplace, attorney in fact of R. P. Gaillard and his wife Marie Aspasia Gaillard; C. E. Greneaux, attorney in fact of Marie Eugenie Tauzin and her said husband Louis Tauzin, and of Armand Lauve, senior, curator ad bona of his son Armand Lauve, junior, and curator ad bona of Edward Murphy and tutor of Ophelia and Adelle Murphy; Metoyer, tutor of Dennis Murphy; B. Leonard, James Bludworth, experts; F. W. Ragland, Benjamin F. Chapman, witnesses.

RICHARD FENNESSEY,
Notary public, acting in and for the parish of Natchitoches, in the State of Louisiana.

I, Richard Fennessey, notary public in and for the parish of Natchitoches, in the State of Louisiana, do hereby certify the above and foregoing to be a true and correct copy of the original on file and of record in my office. In testimony whereof I have hereunto set my hand, and, in default of a public seal, have also hereunto affixed my private seal, bearing on the impress thereby made the letters T. A., at my office in the said parish of Natchitoches, upon this ninth day of April, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States of America the fifty-sixth.

(Signed) RICHARD FENNESSEY,
Notary public, acting in and for the parish of Natchitoches, in the State of Louisiana aforesaid.

Petition.

To the honorable John C. Carr, judge of probates in and for the parish of Natchitoches.

The petition of Eliza T. Russell, of said parish, authorized and assisted by her husband, Samuel P. Russell, respectfully represents: That on the 5th of March, 1831, she filed a petition in your honorable court, praying that a judicial partition might be made of certain property lying and being in the parish of Natchitoches, held in community by the heirs and legal representatives of her late father, Samuel Davenport; the heirs and legal representatives of Edward Murphy, late of said parish, deceased; the heirs and legal representatives of William Barr, deceased; and the heirs and legal representatives of Luther Smith, deceased. That the said property held in common consisted of two tracts of land, situate between the Red and Sabine river, and called the La Nana and Ormigas tracts.

That the thirty-first day of March last, the parties interested having been legally cited, your honorable court ordered that a partition of the property held in common be made between the parties, as prayed for, and appointed Bernard Leonard and James Bludworth, esqs., experts, to appraise the property, and divide the same into lots of equal value, and ordered the partition to be completed before Richard Fennessey, esqr., a notary public in and for the parish of Natchitoches. That the said notary proceeded, on the second day of April, instant, to complete

said partition in obedience to the order of court, the experts being present and sworn, and also all the parties interested in said partition, either in person or by attorney in fact. That the map being formed according to law, the lands were divided into four lots, and numbered one, two, three, and four; and being drawn for, it appeared that the heirs of William Barr drew No. four; the heirs of Luther Smith drew lot No. two; and the heirs of Samuel Davenport drew lot number one. That the lots were marked described on a plat of survey of the Ormigas tract, dated July 2d to August 14th, signed by Will. M. Lester, deputy surveyor; and the La Nana tract, represented by a plat copied from the original plat by B. Leonard, parish surveyor of the parish of Natchitoches, signed by him, and dated November 17th, 1831; both which plats are herewith filed, with a copy of the proces-verbal of the proceedings by the notary. That the partition being completed, all the parties interested, with the experts and notary, signed the proces-verbal in the presence of two witnesses. The premises considered, your petitioner prays that your honorable court would summon all the parties interested in said partition, to wit: The heirs and legal representatives of the deceased William Barr, Luther Smith, Edward Murphy, and also her brother, John B. B. Davenport, to show cause, if any they have, in ten days, why the partition made as above stated be not homologated. And, as in duty bound, will pray.

(Signed) BULLARD & SHERBURNE,
Attorneys for petitioners.

We accept service of citation of this petition.

(Signed) Samuel Smith, heir and owner; Robert Thompson, attorney in fact of the heirs of William Barr, deceased; Jn. La Place, attorney in fact of Marie Aspasia Gaillard and R. P. Gaillard; C. E. Greneaux, attorney in fact of Marie Eugene Tauzin and Louis Tauzin, and also attorney in fact of Armand Lauve, senior, tutor of his son Armand Lauve, junior, and of Edward Murphy, Ophelia, and Adelle Murphy; J. B. B. Davenporte.

COURT OF PROBATES, *parish of Natchitoches.*

April 26th, 1833.

It appearing to the court that the parties interested in this cause have been duly notified, and no opposition having been made to the partition made between them, it is therefore adjudged and decreed, that the proceedings in the said partition, which took place before Richard Fennessey, esqr., notary public, be, and the same are hereby homologated.

(Signed) C. E. GRENEAUX,
Judge of probates.

I, Frederick Williams, clerk of the probate court in and for the parish of Natchitoches, do hereby certify the above and foregoing to be a

In witness whereof the party of the first part has hereunto set her hand and seal, the day and year first above written.

(Signed) ABIGAIL SMITH. [SEAL.]

Sealed and delivered in presence of—

(Signed) SAMUEL NICHOLS,
MOSES MATHER,
WILLIAM MATHER.

STATE OF NEW YORK, *ss:*

On the seventeenth day of September, in the year of our Lord one thousand eight hundred and seventeen, before me, William D. Ford, esq'r, a commissioner to perform certain duties of a supreme judge, came Abigail Smith, known to me, and acknowledged she executed the within deed. All which I do hereby certify.

(Signed) WM. D. FORD, *Comm., etc.*

I hereby certify the above and foregoing to be a true copy from the records in my office. Given under my hand and official seal, at Natchitoches, the 18th Feb'y, 1845.

(Signed) C. E GRENEAUX, [L. S.]
Parish judge.

And on the further trial of this cause, on the day and year last above written, the counsel for petitioners offered in evidence a certain other document, marked M, being a deed from Nathan Smith to Mary Smith, dated Oct. 1st, 1829; but the counsel for respondents objecting thereto, the court ordered the following memorandum to be made and placed on record, to wit: The U. S. district attorney makes the same objections to document M as to document L. Whereupon the court overruled the objections, and admitted said document in evidence.

Document marked M.

This indenture, made the first day of October, in the year of our Lord one thousand eight hundred and twenty-nine, between Nathan Smith, of Fairfield, county of Herkimer and State of New York, and Ann, his wife, of the first part, and Mary Smith, of the same place, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of three hundred dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath bargained, sold, remised, and quit claimed, and by these presents doth bargain, sell, remise, and quit claim, unto the said party of the second part, in her actual possession now being, and to her heirs and assigns forever, all the following tracts of land situate, lying, and being in the State of Louisiana, viz: Four equal undivided fifth parts of one equal undivided fourth part of a tract of four leagues square, commonly known by the name of the La Nana tract; also, four equal undivided fifth parts of one equal undi-

vided fourth part of [a] tract of land, six leagues square, adjoining the Sabine river, and commonly called the Ormigas tract, estimated to contain fifty-nine thousand nine hundred and four acres, be the same more or less. The three equal undivided fourth parts of the above named tracts are now, or lately were, the property of the heirs of Samuel Davenport, Edward Murphy, and William Barr, deceased. The lands above described, and hereby intended to be conveyed, *was* the property of Luther Smith, late of Louisiana, deceased, together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to, the above bargained premises, with the said hereditaments and appurtenances: To have and to hold the said above described lands to the said party of the second part, her heirs and assigns, to the sole and only proper use, benefit, and behoof of the said party of the second part, her heirs and assigns, forever.

In witness whereof the said party of the first hath hereunto set their hands and seals, the day and year first above written.

[L. S.] (Signed) NATHAN SMITH,
ANN SMITH.

Signed, sealed, and delivered in the presence of—
(Signed) HIRAM NOLTON,
SAMUEL SMITH.

The interlineation over the fourteenth line from the top of the words (be the same more or less) made before delivery.
(Signed) N. SMITH.

(*Endorsements on the above deed.*)

STATE OF NEW YORK, *Herkimer county, ss:*

On the first day of October, 1829, before me, Hiram Nolton, first judge of the court of common pleas, in and for the county of Herkimer aforesaid, and of the degree of counsellor at law of the supreme court of judicature of the said State, personally appeared Nathan Smith, to me known to be the person described in, and who executed the within deed, and he duly acknowledged that he did execute the same for the uses and purposes therein mentioned. I do therefore allow the same to be recorded.
(Signed) HIRAM NOLTON.

STATE OF NEW YORK, *Herkimer county, ss:*

On the ninth day of Oct., 1829, before me, Hiram Nolton, first judge of the court of common pleas in and for said county aforesaid, and of the degree of counsellor at law of the supreme court of this State, personally came Ann Smith, wife of the within [named] Nathan, to me

known to be the person described in, and who executed the within deed, and she being examined by me privately and apart from her said husband, confessed that she executed the same fully, voluntarily, and without any fear or compulsion of her said husband.

Let the sale be recorded.

(Signed) HIRAM NOLTON.

I hereby certify the above and foregoing to be a true copy from the records in my office.

Given under my hand and official seal, at Natchitoches, this 18th day of February, 1845.

[L. S.] (Signed) C. E. GREENOUGH,
Parish Judge.

And on the further trial of this cause, on the day and year last above written, the counsel for the petitioners offered in evidence certain other documents, viz., one document marked N, purporting to be the copy of a deed from Mary Smith to Samuel Smith, dated Oct. 3d, 1829; also, another document, marked O, purporting to be the copy of a deed from Nathan Smith to Samuel Smith, dated Oct. 29, 1830; also, another document marked P, purporting to be the copy of a deed from Samuel Smith and wife to Yates & McIntyre, dated Oct. 20th, 1832; also, another document, marked Q, purporting to be the copy of a deed from Samuel Smith and wife to Yates & McIntyre, dated March 17th, 1835; and, also, another document, marked R, purporting to be the copy of a deed from Samuel Smith and wife to Yates & McIntyre, dated June 20th, 1837. But the counsel for the respondents objecting to the above documents, the court ordered the following memorandum to be made and placed on record, to wit, the U. S. district attorney makes the same objections to documents marked N, O, P, Q, and R, as were made to document L; but the court overruled the objections, and admitted in evidence said documents.

Document marked N.

This indenture, made the third day of October, in the year of our Lord one thousand eight hundred and twenty-nine, between Mary Smith, of the town of Fairfield, county of Herkimer, and State of New York, of the first part, and Samuel Smith, of the village and town of Little Falls, county and State aforesaid, witnesseth: That the said party of the first part, for and in consideration of the sum of six hundred dollars, to her in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath bargained, sold, remised, and quit-claimed, and by these presents doth bargain, sell, remise, and quit-claim, unto the said party of the second part, in him actual possession now being, and to him, his heirs and assigns, forever, all the following tracts of land, situate, lying, and being in the State of Louisiana, viz: Four equal undivided fifth parts of one equal undivided fourth part of a tract of land of four leagues square, commonly known by the name of the La Nana tract; also four equal undivided fifth

parts of one equal undivided fourth part of a tract of land six leagues square, adjoining the Sabine river, commonly called the Ormigas tract, estimated to contain fifty-nine thousand nine hundred and four acres of land, be the same more or less. The three equal undivided fourth parts of the above named tracts are now, or lately were, the property of the heirs of Samuel Davenport, Edward Murphy, and William Barr, deceased. The lands above described, and hereby intended to be conveyed, were the property of Luther Smith, late of Louisiana, deceased. Together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to the above bargained premises, with the hereditaments and appurtenances. To have and to hold the said above described lands, to the said party of the second part, his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said party of the second part, his heirs and assigns, forever.

In witness whereof the said party of the first part hath hereunto set her hand and seal, the day and year first above written.

Signed, MARY SMITH. [SEAL.]

Signed, sealed, and delivered, in the presence of—
Signed, WILLIAM HY. HOWARD,
PETER H. CHURCH.

(Endorsement on the above deed.)

STATE OF NEW YORK, *Herkimer county, ss:*

On the ninth day of October, 1829, before me, Hiram Nolton, first judge of the court of common pleas, in and for the said county of Herkimer, and of the degree of counsellor at law of the supreme court of this State, personally came Mary Smith, to me known to be the person described in, and who executed the within deed; and she duly acknowledged that she did execute the same for the uses therein mentioned. Let the same be recorded.

Signed, HIRAM NOLTON.

I hereby certify the above and foregoing to be a true copy from the records in my office.

Given under my hand and official seal, at Natchitoches, this 18th February, 1845.

Signed, C. E. GRENEAUX, *Parish Judge.*

Document marked O.

This indenture, made the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and thirty, between Nathan

Smith, of Fairfield, county of Herkimer, and State of New York, of the first part, and Samuel Smith, of the town of Little Falls, of the same county and State, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of three hundred dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath bargained, sold, remised, and quit-claimed, and by these presents doth bargain, sell, remise, and quit-claim, unto the said party of the second part, in his actual possession now being, and to his heirs and assigns, forever, all that certain piece or parcel of land containing ten thousand three hundred and sixty eight acres, situate, lying, and being in the State of Louisiana, being an undivided share of one equal undivided fourth part of a tract of land, six leagues square, which said tract is bounded as follows, to wit: Beginning at a sweet gum tree, standing on the east bank of the Sabine river, marked or branded M B D, which said tree stands in the road leading from Natchitoches to Nacogdoches, at a place called the Ormigas; running from thence down the river, with the meanders thereof, as far as to make nine miles on a straight line, and cornering on a red oak, marked with the letters M B D; thence north 66° east, eighteen miles and seventy-four chains, to a red oak, marked with the letters M B D; thence north 24° west, crossing two roads, eighteen miles to a post oak, marked M B D; thence south 66° 10′, eighteen miles and 58 chains to a hollow tree, marked with the letters M B D, on the bank of the aforesaid river; thence down the said river, with the meanders thereof, to the place of beginning, containing two hundred and seven thousand three hundred and sixty acres. Also another tract or parcel of land, containing four thousand six hundred and eight acres, being an equal undivided share of one equal undivided fourth part of a tract of four leagues square, situated in Louisiana aforesaid, on both sides of the La Nana river; three-fourths of both the above tracts belonging to Samuel Davenport and the heirs of *Edmond* Murphy and William Barr. Together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, or demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to the above bargained premises, with the said hereditaments and appurtenances. To have and to hold the said described premises to the said party of the second part, his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said party of the second part, his heirs and assigns, forever.

In witness whereof the said party of the first part hath hereunto set his hand and seal the day and year first above written.

Signed, NATHAN SMITH. [SEAL.]

Signed, sealed, and delivered, in presence of
Signed, CORNELIUS CHATFIELD.

On which were the following endorsements, to wit:

STATE OF NEW YORK, *Herkimer county, ss:*

Be it remembered, that on the twenty-ninth day of November, one thousand eight hundred and thirty, before me, Hiram Nolton, a justice of the peace, in the town of Fairfield, in the said county of Herkimer, personally appeared Nathan Smith, to me known to be the person described in, and who executed the within deed, and he duly acknowledged that he executed the same for the uses and purposes therein mentioned, and there being no interlineations or erasures therein, I do allow the same to be recorded.

Signed, HIRAM NOLTON, *Justice of the Peace.*

STATE OF NEW YORK,
Herkimer county, Clerk's office.

State of New York, Herkimer county, clerk's office: I, Abijah Beckwith, clerk of the said county, do hereby certify, that Hiram Nolton, whose name is subscribed to the foregoing acknowledgment, was a justice of the peace in and for said county, and duly qualified to act at the time when the said acknowledgment was taken; and further, that I am well acquainted with the handwriting of the said justice, and verily believe the signature of "Hiram Nolton" above written is the proper handwriting of said justice.

In testimony whereof I have thereunto set my hand, and affixed the seal of the said county, this thirtieth day of November, A. D. 1830.

Signed, ABIJAH BECKWITH, *Clerk,*
Per EDWARD C. PINNEY, *Dep. Cl'k.*

To which was attached the following certificate, by Enos T. Throop, lieutenant governor of the State of New York, acting as governor of said State:

It is hereby certified, that Hiram Nolton, before whom the annexed deed was acknowledged, and whose name is subscribed to the acknowledgment, was, on the day of the date thereof, a justice of the peace in and for the county of Herkimer, in this State, duly commissioned and sworn, and that full faith and credit may and ought to be given to his official acts.

In testimony whereof I have caused the great seal of the said State to be hereunto affixed.

Witness my hand, at the city of Albany, the third day of December, in the year of our Lord one thousand eight hundred and thirty.

Signed, E. T. THROOP.

Passed the secretary's office, the 3d day of December, 1830.

Signed, A. CAMPBELL, *Dep. Sec.*

I hereby certify the above and foregoing to be a true copy from the records in my office.

Given under my hand and official seal, at Natchitoches, this 18th of February, 1845.

C. E. GRENEAUX, *Parish Judge.*

Document marked P.

This indenture, made the twentieth day of October, in the year of our Lord one thousand eight hundred and thirty-two, between Samuel Smith, of the town of Little Falls, in the county of Herkimer, and Fanny, his wife, of the first part, and Archibald McIntyre and Henry Yates, of the city of New York, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of ten thousand dollars, lawful money of the United States of America, to them in hand paid, by the said parties of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said parties of the second part, their heirs, executors, and administrators, forever released and discharged from the same, by these presents have granted, bargained, sold, aliened, remised, released, conveyed, and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said parties of the second part, and to their heirs and assigns, forever, all those one undivided half part of two certain tracts of land, situate, lying, and being in the State of Louisiana, and known by the names of the Ormigas tract and the La Nana tract, being that part of said tracts which, on a partition of the same tracts, fell to the share of the said Samuel Smith, and is distinguished by lot No. two on each map, which said number two, in each of said tracts, is intended to contain one divided fourth part of the entire contents of said tracts as originally granted, of which divided fourth part one-half is hereby intended to be conveyed of each tract. The first tract is described as follows, the Ormigas being situate on the east and northeast side of the Sabine river, beginning on the east bank of said river, at a sweet gum tree, marked or branded with the letters M B D, standing in the road leading from Natchitoches to Nacogdoches, which road crosses said river at a place called by the Spaniards the Ormigas; running from thence down the river, with the meanders thereof, as far as to make nine miles on a straight line, commencing on a red oak marked with the letters M B D; running thence north sixty-six degrees east eighteen miles and seventy-four chains, to a red oak tree marked with the letters M B D; running thence north twenty-four degrees west, crossing two roads eighteen miles to a post oak marked with the letters M B D; thence south sixty-six degrees west eighteen miles and fifty-eight chains to a holly tree marked with the letters M B D, on the bank of the aforesaid Sabine river; thence down the river, with the meanders thereof, to the place of beginning, containing two hundred and seven thousand and three hundred and sixty acres. And the other piece, a tract of land called the La Nana tract, described as situated at a place called, on the eastern side of the Sabine river, La Nana, being about seven leagues from the Sabine river, on the main road that passes from Nacogdoches to Natchitoches. In the centre of said tract of land is the prairie that joins the drains of Coyo of said Nana and meets the main road, the same being two leagues long on each course; so it forms a perfect

square, each side having four leagues in length, and the centre of said square being the prairie, the last piece containing ninety-two thousand one hundred and sixty acres of land. A map or plat of said respective tracts of land, and of the partition thereof as the same was made according to the laws of the State of Louisiana, is on file in the office of the judge of probates of the parish of Natchitoches, on which the judicial partition of said tracts was made, by which it will appear that number two, in each of said tracts, fell to the share of Samuel Smith, the party of the first part. One equal half of each tract is hereby conveyed to said Archibald McIntyre and Henry Yates, which said share or half part hereby conveyed is said to contain together thirty-seven thousand and four hundred and forty acres, reference for said map and partition being made to the same on file as aforesaid will fully and at large appear; together with all and singular the rights, members, privileges, hereditaments, and appurtenances, whatsoever, unto the said above mentioned and described premises in any wise appertaining or belonging, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest, dower, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to the same, and every part and parcel thereof, with the appurtenances; to have and to hold the above granted, bargained, and described premises, and every part and parcel thereof, with the hereditaments and appurtenances, unto the said parties of the second part, their heirs and assigns, to *their* their own proper use, benefit, and behoof forever. And the said Samuel Smith, and Fanny, his wife, for themselves, their heirs, executors, and administrators, do hereby covenant, grant, promise, and agree, to and with the said parties of the second part, their heirs and assigns, that they, the said Samuel Smith and Fanny, his wife, at the time of the sealing and delivery of these presents, were lawfully seized, in their own right, of a good, sure, absolute, and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted, bargained, and described premises, with the appurtenances, and have good right, full power, and lawful authority to grant, bargain, sell, and convey the same in manner and form aforesaid; and that the said parties of the second part, their heirs and assigns, shall and may, at all times hereafter, peaceably and quietly have, hold, use, occupy, possess, and enjoy the above granted premises, and every part and parcel thereof, with the hereditaments and appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said *party* of the first part, their heirs or assigns, or of any other person or persons whomsoever; and that the same now are free, clear, discharged, and unencumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and encumbrances of what nature or kind soever.

And also that the said party of the first part, and their heirs, and all and every other person or persons whomsoever, lawfully or equitably deriving any estate, right, title, or interest of, in, or to the herein before granted premises, by, from, under, or in trust for them, shall and will,

at any time or times hereafter, upon the reasonable request, and at the proper costs and charges in the law, of the said parties of the second part, their heirs and assigns, make, do, and execute, or cause or procure to be made, done, and executed, all and every such farther and other lawful and reasonable acts, conveyances, and assurances in the law, for the better and the more effectually vesting and confirming the premises hereby intended to be granted, in and to the said parties of the second part, their heirs and assigns, forever, as by the said parties of the second part, their heirs or assigns, or their counsel learned in the law, shall be reasonably devised, advised, or required.

And the said Samuel Smith and Fanny, his wife, and their heirs, the above described and hereby granted and released premises, and every part and parcel thereof, with the hereditaments and appurtenances, unto the said parties of the second part, their heirs and assigns, against the said party of the first part, and their heirs, and against all and every person and persons whomsoever, shall and will warrant, and by these presents forever defend.

In witness whereof the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

SAMUEL SMITH, [L. S.]
FANNY SMITH. [L. S.]

Sealed and delivered in the presence of—
(Signed) ELIZA MARY SMITH,
(Signed) JANE S. SMITH.

STATE OF NEW YORK, *Herkimer, ss.*

On the twentieth day of November, in the year of our Lord one thousand eight hundred and thirty-two, personally appeared before me the within named and described Samuel Smith and Fanny, his wife, to me known to be the persons within described, who acknowledged that they had executed the within and annexed deed; and the said Fanny, on a private examination apart from her said husband, acknowledged that she had executed the said deed freely, without any fear or compulsion of her said husband; and the said Samuel Smith and Fanny, his wife, acknowledged to have executed the said deed for the uses and purposes therein mentioned, and finding therein no alteration, I allow the same to be recorded. The words "to have executed" interlined.

(Signed) SANDERS LANSING,
Supreme court commissioner.

To the above indenture is appended the following certificate:

STATE OF NEW YORK,
Clerk's office, Herkimer county, ss.

I, Francis E. Spinner, deputy clerk of the court of common pleas of said county, and also the deputy clerk of Herkimer county, [L. S.] do hereby certify, that Sanders Lansing, of the village of Little Falls, in said county of Herkimer, esquire, was, at the time this certificate bears date, a supreme court commissioner in and for said

State of New York, and duly authorized to take the proof and acknowledgment of deeds, mortgages, powers of attorney, and other instruments in writing, to be recorded in said State of New York, and said Sanders was duly qualified to act as such commissioner at the date of this certificate.

Given under my hand, and the seal of said court and county, this nineteenth day of November, in the year eighteen hundred and thirty-two.

(Signed) F. E. SPINNER, *Deputy clerk.*

Document marked Q.

This indenture, made the seventeenth day of March, in the year of our Lord one thousand eight hundred and thirty-five, between Samuel Smith, of the town of Little Falls, in the county of Herkimer, and State of New York, and Fanny, his wife, of the first part, and Archibald McIntyre and Henry Yates, of the city of New York, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of four thousand five hundred dollars, lawful money of the United States of America, to them in hand paid by the said parties of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said parties of the second part, their heirs, executors, and administrators, forever released and discharged from the same, by these presents have granted, bargained, sold, aliened, remised, released, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said parties of the second part, and to their heirs and assigns, forever, all those one undivided three-eighths part of two certain tracts of land, situate, lying, and being in the State of Louisiana, and known by the name of the Ormigas tract and the La Nana tract, being that part of said tracts which, on a partition of the same tracts, fell to the share of the said Samuel Smith, and is distinguished by lot No. two on each map, which said number two in each of said [tracts,] is intended to contain one divided fourth part of the entire contents of said tracts as originally granted, of which divided fourth part three-eighths parts is hereby intended to be conveyed of each tract; one-half of the same has heretofore been conveyed by the said party of the first part to the said party of the second part. The first tract is described as follows: The Ormigas being situate on the east and north-east side of the Sabine river, beginning on the east bank of said river at a sweet gum tree, marked or branded with the letters M B D, standing in the road leading from Natchitoches to Nacogdoches, which road crosses said river at a place called by the Spaniards the Ormigas; running from thence down the river with the meanders thereof as far as to make nine miles on a straight line, commencing on a red oak marked with the letters M B D; running thence north sixty-six degrees east, eighteen miles and seventy-four chains to [a] red oak tree marked with the letters M B D; running thence north twenty-four degrees west, cross-

ing two roads, eighteen miles to a post oak, marked with the letters M B D; thenceforth sixty-six degrees west, eighteen miles and fifty-eight chains to a holly tree marked with the letters M B D, on the bank of the aforesaid river; thence down the river with the meanders thereof to the place of beginning, containing two hundred and seven thousand and three hundred and sixty acres. And the other piece or tract of land called the La Nana tract, described as situated at a place called on the eastern side of the Sabine river La Nana, being about seven leagues from the Sabine river on the main road that passes from Nacogdoches to Natchitoches. In the centre of said tract of land is the prairie that joins the drains of Coyo of said Nana, and meets the main road, the same being two leagues long on each course, so it forms a perfect square, each side having four leagues in length, and the centre of said square being the prairie, the last piece containing ninety-two thousand one hundred and sixty acres of land; a map or plat of said respective tracts of land, and of the partition thereof, as the same was made according to the laws of the State of Louisiana, is on file in the office of the judge of probates of the parish of Natchitoches, on which the judicial partition of said tracts was made, by which it will appear that number two in each of said tracts fell to the share of Samuel Smith, the party of the first part: one equal half of each tract was heretofore, and three-eighths of each part is hereby, conveyed to said Archibald McIntyre and Henry Yates; which said share, or three-eighths part hereby conveyed, is said to contain together thirty thousand acres, reference for said map and partition being made to the same on file as aforesaid, will fully and at large appear.

The whole vested in the parties of the second part, by both conveyances, being seven-eights of the portion or part of the said Samuel Smith, in the said two tracts; together with all and singular the tenements, hereditaments, rights, members, privileges, and appurtenances, unto the said above mentioned and described premises belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, dower, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to the same, and every part and parcel thereof, with the appurtenances.

To have and to hold the above granted, bargained, and described premises, and every part and parcel thereof, with the hereditaments and appurtenances, unto the said parties of the second part, their heirs and assigns, to the sole and only proper use, benefit, and behoof of the said parties of the second part, their heirs and assigns forever. And the said Samuel Smith and Fanny, his wife, for themselves, their heirs, executors, and administrators, do covenant, grant, promise, and agree, to and with the said parties of the second part, their heirs and assigns, in manner and form following, that is to say, that they, the said Samuel Smith and Fanny, his wife, at the time of the sealing and delivery of these presents, were lawfully seized, in their own right, of a good, sure,

absolute, and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted, bargained, and described premises, with the appurtenances, and have good right, full power, and lawful authority to grant, bargain, sell, and convey the same in manner and form aforesaid; and that the said parties of the second part, their heirs and assigns, shall and may at all times hereafter, peaceably and quietly have, hold, use, occupy, possess, and enjoy the above granted premises, and every part and parcel thereof, with the hereditaments and appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said party of the first part, their heirs or assigns, or of any other person or persons whomsoever, lawfully claiming or to claim the same; and that the same now are free, clear, discharged, and unencumbered, of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and encumbrances of what nature or kind soever; and, also, that the said party of the first part, and their heirs, and all and every other person or persons whomsoever, lawfully or equitably deriving any estate, right, title, or interest of, in, or to the herein before granted premises, or any part or parcel thereof, by from, under, or in trust for them, shall and will, at any time or times hereafter, upon the reasonable request and at the proper costs and charges in the law, of the said parties of the second part, their heirs and assigns, make, do, and execute, or cause or procure to be made, done, and executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law, for the better and more effectually vesting and confirming the premises hereby intended to be granted, in and to the said parties of the second part, their heirs and assigns forever, as by the said part[y] of the second part, their heirs or assigns, or their counsel learned in the law, shall be reasonably devised, advised, or required; and that the said Samuel Smith and Fanny, his wife, and their heirs, the above described and hereby granted and released premises, and every part and parcel thereof, with the hereditaments and appurtenances, unto the said parties of the second part, their heirs and assigns, against the said party of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend.

In witness whereof the parties to these presents have hereunto interchangeably set their hands and seals, the day and year first above written.

Signed, SAMUEL SMITH, [L. S.]
FANNY SMITH. [L. S.]

Sealed and delivered in the presence of—
WILLIAM H. A. SMITH.

STATE OF NEW YORK, *Herkimer county, ss:*

On this 22d day of April, 1835, before me, came Samuel Smith and Fanny Smith, his wife, both of whom are to me personally known to be the persons mentioned in, and who executed the foregoing conveyance, and

acknowledged the due execution thereof; and the said Fanny on a private examination, apart from her said husband, acknowledged that she executed the same freely and without any fear or compulsion of her said husband.

Signed, A. LOOMIS, *first Judge of Herkimer county, and counsellor in the supreme court.*

To the copy of the above indenture is appended a certificate, in the words and figures following, to wit:

STATE OF NEW YORK,
Herkimer county, Clerk's office, ss:

I, John Dyjut, clerk of the county aforesaid, do certify, that Arphaxad Loomis, esq., whose name is subscribed to the within instrument, is first judge of the Herkimer county courts, and counsellor at law in supreme court; and further, that I am well acquainted with the handwriting of A. Loomis, and verily believe the signature to be genuine.

[L. S.] In witness whereof I have hereunto set the seal of said county, this 20th April, 1835.

Signed, JOHN DYJUT, *Clerk.*

Document marked R.

This indenture, made the twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-seven, between Samuel Smith, of the town of Little Falls, in the county of Herkimer, and State of New York, and Fanny, his wife, of the first part, and Henry Yates, of the city of New York, and Archibald McIntyre, of the city of Albany, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of three thousand dollars, lawful money of the United States of America, to them in hand paid, by the said parties of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said parties of the second part, their heirs, executors, and administrators, forever released and discharged from the same, by these presents ha granted, bargained, sold, aliened, remised, released, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said parties of the second part, and to their heirs and assigns forever, all that certain share which fell and was allotted to the heirs of Luther Smith, of all those two certain tracts, pieces, or parcels of land, situate, lying, and being in the State of Louisiana, and known by the names of the Ormigas tract and the La Nana tract. The Ormigas tract being situate on the east or northeast side of the Sabine river; beginning at a sweet gum tree, marked or branded with the letters M. B. D., standing on the east bank of said Sabine river, in the road leading from Natchitoches to *Natchidoches*, which road crosses said river at a place called by the Spaniards the Ormigas; running from thence down the river, with the

meanders thereof, as far as to make nine miles on a straight line, cornering on a red oak, marked with the letters M. B. D; running thence north sixty-six degrees east, eighteen miles and seventy-four chains to a red oak tree, marked with the letters M. B. D; running thence north twenty-four degrees west, crossing two roads, eighteen miles to a post oak, marked with the letters M. B. D; thence south sixty-six degrees west, eighteen miles and fifty-eight chains to a Holly tree, marked with the letters M. B. D., on the bank of the aforesaid Sabine river; thence down the river, with the meanders thereof, to the place of beginning; containing two hundred and seven thousand three hundred and sixty acres. The other piece or tract of land called the La Nana tract, described as situate at a place called, on the eastern side of the Sabine river, La Nana, being about seven leagues from the Sabine river, on the main road that passes from *Nacadoches* to Natchitoches; in the centre of said tract of land is the prairie that joins the drains of Coyo of the said Nana, and meets the main road; the same being two leagues long on each course, so that it forms a perfect square, each side having four leagues in length, and the centre of the said square being the prairie; the last piece containing ninety-two thousand one hundred and sixty acres of land. The premises hereby conveyed being the residue of the share of said tracts allotted to the heirs of Luther Smith, including the share claimed by George Q. Wyllys, deceased, in his lifetime; seven-eighths of said share of Luther Smith having heretofore been conveyed by the parties of the first part to the said parties of the second part hereto; together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, dower, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said *part* of the first part, of, in, and to the same, and every part and parcel thereof, with the appurtenances; to have and to hold the above granted, bargained, and described premises, with the appurtenances, unto the said parties of the second part, their heirs and assigns, to their own proper use, benefit, and behoof forever. And the said Samuel Smith, for himself and his heirs, executors, and administrators, doth covenant, grant, and agree, to and with the said parties of the second part, their heirs and assigns, that the said Samuel Smith, at the time of the sealing and delivery of these presents, was lawfully seized in fee simple, in his own right, of a good, absolute, and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted, bargained, and described premises, with the appurtenances; and hath good right, full power, and lawful authority to grant, bargain, sell, and convey the same in manner and form aforesaid. And that the said parties of the second part, their heirs and assigns, shall and may, at all times hereafter, peaceably and quietly, have, hold, use, occupy, possess, and enjoy the above granted premises, and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction, or disturbance of the said parties of the first part, their heirs or

assigns, or of any other person or persons lawfully claiming or to claim the same; and that the same now are free, clear, discharged, and unencumbered, of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and encumbrances, of what nature or kind soever. And also that the said parties of the first part, and their heirs, and all and every other person or persons whomsoever, lawfully or equitably deriving any estate, right, title, or interest of, in, or to the herein before granted premises, by, from, under, or in trust for them, shall and will, at any time or times hereafter, upon the reasonable request, and at the proper costs and charges in the law, of the said parties of the second part, their heirs and assigns, make, do, and execute, or cause or procure to be made, done, and executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law, for the better and more effectually vesting and confirming the premises hereby intended to be granted in and to the said parties of the second part, their heirs and assigns forever, as by the said parties of the second part, their heirs or assigns, or their counsel learned in the law, shall be reasonably devised, advised, or required. And the said Samuel Smith, heirs, the above described and hereby granted and released premises, and every part and parcel thereof, with the appurtenances, unto the said parties of the second part, their heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend.

In witness whereof the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

SAML. SMITH, [L. S.]
FANNY SMITH. [L. S.]

Sealed and delivered in presence of.

The words "the heirs of" and "to *Nachatoches*" in the description first interlined.

STATE OF NEW YORK,
Herkimer county, ss:

On this 4th day of July, 1837, personally came before me Samuel Smith and Fanny, his wife, to me well known to be the persons described in, and who executed the within deed, and they acknowledged the execution of the same for the uses and purposes therein expressed. And the said Fanny, on a private examination, separate and apart from her said husband, acknowledged the execution of within deed, freely, without any fear or compulsion from her said husband: there being no material alterations, except as within noted, let the same be recorded.

(Signed) SOLOMON PETRIE,
Commissioner of deeds.

STATE OF LOUISIANA,
Parish of Natchitoches.

I, the undersigned, parish judge, do hereby certify, that the forego-

ing act of sale, and the two certificates to the same annexed, are duly recorded in my office, on this day, in book L, folio 26 to 31.

Given under my hand and official seal, at Natchitoches, this 12th day of March, A. D. 1841.

(Signed,) C. E. GRENEAUX, [L. S.]
Parish judge.

And to the copy of the above indenture is appended a certain certificate, in the words and figures following, to wit:

STATE OF NEW YORK,
Herkimer county, clerk's office, ss:

I certify, that Solomon Petrie, esq'r, whose signature appears to the certificate of the proof or acknowledgment of the annexed deed, was at the time of taking such proof or acknowledgment a commissioner of deeds, etc., in and for said county, dwelling in said county, and duly authorized to take the same; and that I am well acquainted with his handwriting, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

In testimony whereof I have hereunto set my hand, and affixed the [L. S.] seal of the said county, this 5th day of November, one thousand eight hundred and forty.

(Signed) JOHN DYJUT, *Clerk.*

And on the further trial of this cause, on the day and year last above written, the counsel for petitioners offered in evidence a certain document, marked S, being a copy of a bill of sale from G. W. Thompson to Yates & McIntyre. To this document no objections were made by the U. S. district attorney. The said document S is in the words and figures following, to wit:

Document marked S.

STATE OF LOUISIANA, *parish of Sabine.*

Be it known, that this day, before me, W. R. D. Speight, judge and ex officio notary public in and for the parish of Sabine, State of Louisiana, duly commissioned and sworn, personally came and appeared George W. Thompson, of the same parish and State, who declared that, for and in consideration of the sum of eight hundred and eighty-eight dollars and seventy-nine and half cents, to him cash in hand paid by Henry Yates & Archibald McIntyre, of the State of New York, the receipt whereof he hereby acknowledges, he does by these presents grant, bargain, sell, convey, transfer, and deliver to the said Henry Yates and Arbhibald McIntyre, herein represented by Lewis R. Walmsley, of the parish of Sabine, who accepts this sale for them, the following described property, situated in said parish, to wit, sixty thousand acres of land, lying in the La Nana and Ormigas tracts, as will appear by reference to a map of survey made thereof by G. S. & W. T.

Walmsley, and being the same purchased by the present vendor at a sheriff's sale made thereof for taxes in 1844, for the taxes claimed thereon for the year 1843, and on which the said vendor has paid the taxes claimed thereon for the year 1844:. To have and to hold to the said Henry Yates and Archibald McIntyre, their heirs and assigns, forever. The said land being free from all encumbrances granted thereon by the said vendor; and the said vendor will warrant and forever defend the title to the said lands, unto the said purchasers, their heirs and assigns, against all persons claiming title thereto, by, through, or under him.

Thus done and passed at my office, in the town of Mary, in the parish and State aforesaid, in presence of S. S. Eason and S. J. McCurdy, witnesses of lawful age, and domiciliated in said parish, and of me, the said judge and notary, this 26th day of September, 1845.

(Signed) G. W. THOMPSON,
LEWIS R. WALMSLEY,
For Henry Yates and Archibald McIntyre.
W. R. D. SPEIGHT,
Parish Judge and ex officio Notary Public.

Witnesses:
(Signed) S. S. EASON,
S. J. MCCURDY.

I certify the above and foregoing to be a true copy, on file and of record in my office, in the town of Mary, in the parish of Sabine, State of Louisiana.

Given under my hand and private seal, having no seal of office, this 26th day of September, 1845.

(Signed) W. R. D. SPEIGHT,
Parish Judge and ex officio Notary Public.

In the above copy the word "appeared" in the copy filed in evidence is interlined, but no mention is made of such interlineation, nor is there any seal to said copy, private or official.

And on the further trial of this cause, on the day and year last above written, the counsel for petitioners offered in evidence pages two hundred and sixteen and two hundred and sixty-four of a certain volume, purporting to be the laws of Texas; but the United States district attorney, counsel for respondents, objecting thereto, the court ordered the following memorandum to be made and placed upon record, to wit: The United States district attorney objects to said volume, as not being proved; but the court overruled the objection, and the said pages of said volume were admitted in evidence.

Pages 216 *and* 264 *of the Laws of Texas.*

An act to establish a general land office for the Republic of Texas.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That there shall be,

and is hereby, established a general land office, *for* chief officer of which shall be styled the commissioner of the general land office, who shall hold his office at the seat of government, whose duty it shall be to superintend, execute, and perform all acts and things touching or respecting the public lands of the Republic of Texas.

Sec. 2. And be it further enacted, That there shall be in the said office an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and be called the chief clerk of the general land office, who, in all cases when the said principal office shall become vacant, during such vacancy, shall have the charge and custody of the seal, and all the records, books, and papers belonging to the said office.

Sec. 3. And be it further enacted, That the said principal officer, and every other person to be appointed and employed in the said office, shall, before he enters on the duties of his office, take and subscribe the following oath of office: "I, A. B., do solemnly swear, or affirm, that I will honestly and faithfully discharge the duties of my office, as , without favor or partiality. So help me God."

Sec. 4. And be it further enacted, That the said commissioner of the general land office shall cause a seal to be made and provided for the said office, with such device as the President of the Republic shall approve; and copies of any records, books, or papers belonging to the said office, under the signature of the said commissioner, or, when the office shall become vacant, under the signature of the chief clerk, and the said seal, shall be competent evidence in all cases in which the original records, books, or papers could be evidence.

Sec. 5. And be it further enacted, That the said commissioner shall forthwith, after his appointment, be entitled to the custody, and shall take charge of the said seal, and also all the records, books, and papers in any way appertaining to the lands of the Republic, and that may now be in the care or possession of all empresaries, political chiefs, alcaldes, commissarios, or commissioners for issuing land titles, or any other person, and the said records, books, and papers shall become and be deemed the books and papers of the said office.

Sec. 6. And be it further enacted, That the said commissioner shall, when required by the President of the Republic of Texas, or either House of Congress, make a plat of any land surveyed under the authority of the government, and give such information respecting the public lands, and concerning the business of his office, as shall be legally required.

Sec. 7. And be it further enacted, That in all cases in which land shall be hereafter given by the Republic of Texas for military services, warrants shall be granted to the parties entitled to such lands by the Secretary of War; and such warrant shall be recorded in books to be kept by him for that purpose, and shall be located as is provided in this act.

Sec. 8. And be it further enacted, That all patents issuing from the said office shall be in the name of the Republic of Texas, and under

the seal of said office, and be signed by the President of the Republic of Texas, and countersigned by the commissioner of the general land office.

Sec. 9. And be it further enacted, That no person appointed to an office instituted by this act, or employed in any such office, shall, directly or indirectly, be concerned in the purchase of any right, title, or interest in any public land, either in his own name, right, or in trust for any other person, or in the name or right of any other person in trust for himself; nor shall take or receive any fee or emolument for negotiating or transacting the business of said office. And any person offending in the premises against the prohibition of this act, shall forfeit and pay one thousand dollars; and, upon conviction, shall be removed from office.

Sec. 10. And be it further enacted, That the commissioner of the general land office shall be appointed by the President, with the consent and advice of the Senate; and said commissioner of the general land office shall hold his office for three years, and shall be re-eligible. He shall receive an annual salary of three thousand dollars per annum, payable quarterly, out of any money in the treasury not otherwise appropriated; and the said commissioner shall have the privilege of sending and receiving letters and packages, and also final certificates and patents of land, free of postage.

Sec. 11. And be it further enacted, That the commissioner of the general land office shall be authorized to employ a sufficient number of clerks, provided that their annual compensation shall not exceed, in the whole, two thousand dollars per annum; and the said compensation shall be paid out of any moneys in the treasury not otherwise appropriated.

Sec. 12. And be it further enacted, That there shall be established a land office, No. 1, at the house of George Wright, on Red river, for the district of Red river, which shall include all that country lying and situated within the following boundaries, viz., the line to begin at the mouth of the Sulphur fork of Red river, and run up that river to the crossing of the Trammel trace; thence, on that trace, to the Sabine river; thence up that river to its source; then due west to the Trinity river; thence, up that river, to its source; thence, due north, to Red river; thence, down that river, to the beginning. And a land office, No. 2, at San Augustine, for the counties of San Augustine, Jasper, Sabine, and Shelby. One other land office, No. 3, at Liberty, for the counties of Jefferson, Liberty, and Harrisburg. One other land office, No. 4, at Nacogdoches, for all that section of country which lies north of Liberty and east of the Trinity, not included in any other land office district. One other land office, No. 5, composing the counties of Brazoria, Matagorda, and Jackson, to be located at the town of Matagorda. No. 6, composing the counties of Austin, Colorado, and Washington, to be located at the town of Washington. No. 7, composing the county of Milam, and all the country west of the Trinity and east of the Brazos, not included in any other land district. No. 8, composing the

county of Mina, and all the country west of the Colorado river, north of the La Bahia road, and east of De Witt's colony, to be located at the town of Mina. No. 9, composing all that tract of country heretofore embraced in the colony of De Witt, to be located at the town of Gonzales. No. 10, also a land office, to be located at San Antonio de Bexar, for all that tract of country west of De Witt's and north of Powers' colony. No. 11, a land office to be located at the town of Victoria, for all that country west of the district of Matagorda, and south of Gonzales and Bexar.

Sec. 13. And be it further enacted, That the several surveyors general shall be appointed by the President, by and with the advice and consent of the Senate; shall be commissioned by the President; may continue in office three years; eligible to a reappointment; shall reside at the land office for which he is appointed; whose duty it shall be to furnish such regulations and instructions to their deputies as may be furnished them, from time to time, by the commissioners of the general land office; shall administer oaths to the deputies, as prescribed in the third section of this act, whose duty it shall be examine the field notes and plats of all surveys which have been, or may be, made within the bounds of his authority, for the purpose of getting a patent for them, and see that they are correct; and shall certify the same on the same paper on which are the field notes; and shall carefully preserve in his office a copy of all said field notes and plats. And said surveyor general shall be entitled to charge persons presenting field notes and plats for his inspection, the following fees, viz., for every field note and plat of a survey, which lies in a square or an oblong shape, one dollar; for every survey which has more than four lines, and less than eight, one dollar and fifty cents; over eight, and less than thirteen, two dollars; and for all which have more than twelve lines, the sum of three dollars. And on application of any individual, in person, to any one of the surveyors general, and producing sufficient testimony of proper qualifications, he shall be deputed by the said surveyor general to survey any where within the bounds of his authority; for which deputation the deputy shall pay the surveyor general the sum of three dollars.

Sec. 14. And be it further enacted, That there shall be one register of public lands and one receiver of public moneys for each district, to be appointed by the President, with the advice and consent of the Senate, for the term of three years, eligible to a reappointment, and for misconduct in office may be suspended by the President, who shall hold their offices at such places as Congress may by law direct. And the receiver shall enter into bond, with good and sufficient security, to be approved of and certified by the chief justice of the county court, payable to the President and his successors in office, in the sum of ten thousand dollars, which bond shall not become void on the recovery thereof, conditioned well and truly to pay all such sums or funds that may be paid to him, on account of the public funds, to the Secretary of the Treasury, for the use of the Republic; and said bond shall be filed in the office of the Secretary of the Treasury; a certified copy of said

bond, from under his hand and seal, shall be evidence, in any court having competent jurisdiction, to recover judgment thereon against such receiver of public moneys.

Sec. 15. And be it further enacted, That any person who is legally entitled to a grant of land of the government, either by citizenship, heirship, or purchase, may apply in person, or by a duly qualified representative, or agent, and by producing legal and sufficient testimony of their claims to the register and receiver of the land office, for the district in which they may live; or, if an heir or heirs, or assignee, the district in which died the testator, or last lived the assignor; and the said register and receiver is hereby authorized to grant to such person so applying an order of survey, directed to any legally authorized surveyor of the republic of Texas, for the amount of land to which they are entitled, stating in the said order of survey at what time the said grantee emigrated to the country, or is a native, for which order of survey the grantee shall pay to the register and receiver, each, the sum of one dollar; and the said register shall record all of said orders in a book, and at the end of every month forward to the commissioner of the general land office a copy of the same. The said register shall also record in a book all powers of attorney, or any other instrument of writing, connected with the grant or orders of survey, for which the applicant shall pay for recording twelve and a half cents for every hundred words; all of which instruments shall be forwarded also to the commissioner of the general land office monthly: provided, always, that any person applying for land as a settler, and claiming his head right as such, shall be required to take and subscribe the following oath or affirmation, before receiving an order of survey; such oath or affirmation to be made before any person legally authorized to administer the same: "I do solemnly swear (or affirm) that I was a resident citizen of Texas at the date of the declaration of independence; that I did not leave the country during the campaign of the spring of one thousand eight hundred and thirty-six, to avoid a participation in the struggle; that I did not refuse to participate in the war; and that I did not aid or assist the enemy; that I have not previously received a title for my quantum of land; and that I conceive myself to be justly entitled, under the constitution and laws, to the quantity of land for which I now apply;" provided, that widows, females, or orphans, shall be, and are hereby, exempt from the duties required by this section.

Sec. 16. And be it further enacted, That all persons claiming lands for military services, and having a certificate of the same, or any order of survey emanating from the proper authorities, may apply directly to the deputy surveyor and have his land surveyed; and said deputy surveyors are hereby authorized to survey for any person having such certificates or orders of survey, conformably to their instructions: provided, that all persons holding such warrants, certificates, or orders of survey, shall first present them to the register of the district in which he resides, who shall record the same in a book to be kept for that purpose, and forward copies to the surveyor general.

Sec. 17. And be it further enacted, That all surveys which have been, or may hereafter be made, agreeably to law in all respects, and certified by the surveyor general for the district in which the land lies, as required in the eleventh section of this law, shall be patented; and the owners thereof, by depositing the same in the land office for the district in which the land lies, and paying to the receiver of the same, in addition to the government fees, the following fees of office, shall, so soon as practicable, be furnished with a patent for said land or lands, viz: For a patent to a league and labor of land, five dollars; for a patent to a third of a league, four dollars; for a patent to twelve hundred and eighty acres, four dollars; for a patent to nine hundred and sixty acres, four dollars; for a patent to six hundred and forty acres, four dollars; for a patent to three hundred and twenty acres, three dollars; for a patent to one labor of land, three dollars; all of which office fees shall be equally divided between the register and the receiver; and the several registers shall, upon the receipt in their offices of all field notes of surveys, made out in the manner above required, immediately making out in such form and manner as the commissioner of the general land office shall instruct him, duplicate blank patents for said land or lands, and forward the same to the commissioner of the general land office, who will immediately cause one of the duplicates to be executed as the law directs, and transmit it forthwith to the proper office for the owner thereof; shall also reserve in the general land office the duplicates of grants, and cause the same also to be recorded in a well bound book, to be kept by him expressly for that purpose. And the said grantees shall pay, as government fees, the price as fixed by the colonization laws of Coahuila and Texas, in force at the time they emigrated to this country.

Sec. 18. And be it further enacted, That the price of surveying shall be three dollars for each Castilian lineal mile.

Sec. 19. And be it further enacted, That if any one of the officers who may be employed in the land office should fail or refuse to do his duty as required by law, he shall, upon conviction thereof before any district court in this republic, forfeit and pay a penalty of any sum not exceeding one thousand dollars, one moiety to the republic, and the other to the party aggrieved; and, any person so aggrieved, may sue the offender in any such court in this republic.

Sec. 20. And be it further enacted, That the president be, and he is hereby, authorized to contract for the surveying, and cause to be surveyed at the expense of this government, a sufficient quantity of lands to satisfy the holders of all land scrip that may have been, or which may hereafter be, issued and sold by this government, agreeably to law in all respects. And the Secretary of the Treasury is hereby authorized to pay, out of any moneys in the treasury not otherwise appropriated, all expenses which may accrue in the completion of said surveys.

Sec. 21. And be it further enacted, That, whereas many persons have received titles under the colonization laws, as colonists, from the different commissioners of the country, and whereas many conditions were by the laws attached to said titles, that all such conditions be, and

are hereby cancelled, and the titles to all such lands be and are hereby ratified and confirmed: provided, that such persons shall pay or cause to be paid into the office of the receiver of the land office of the district where such land may be situated, or into the office of the Secretary of the Treasury, within six months after the opening of the land office, all money which may be due or owing on the same: provided, that the conditions of remaining in the country, and the provision prohibiting a sale to aliens, shall not be repealed by this law. And further provided, that no title by this act shall be confirmed, which was illegal or invalid ab initio. And be it further provided, that it shall not affect the rights of third persons. And further provided, this act shall not extend to the benefit of any grantee or individual, for a greater amount of land than one league and one labor, or that granted to like citizens by the constitution of this republic.

Sec. 22. And be it further enacted, That no person shall, by virtue of an improvement, have a right to claim more than one league and labor of land, and that improvement shall consist in the clearing and fencing, in a farmer-like manner, at least four acres of land ; and the privilege shall not extend to any person who has previously got a grant to the quota of land to which they are entitled by citizenship, nor to any person or persons entitled to a grant of land by purchase.

Sec. 23. And be it further enacted, That the several land offices shall open and go into operation on the first day of June next, and their operations will then be confined to the completing of land titles to all those who, by the previous and existing laws, have acquired a preference to the first location. Of this class are all citizens who were here on the day of the declaration of independence, and those volunteer soldiers who have served a tour of duty in the army of Texas previous to that time. For these classes of claimants the land office shall be opened and remain six months in operation, granting and completing titles alone to that description of claimants ; after which all other legal claimants shall be entitled to have their land titles completed, as is herein provided for and directed.

Sec. 24. And be it further enacted, That every emigrant, who arrives in this republic from and after the first day of January next, who is a free white person, and is the head of a family, and who shall actually reside within the Government with his family, shall be entitled to a conditional grant for twelve hundred and eighty acres of land, by paying the fees of office and for surveying. The conditions of said grant shall be, that the grantee shall remain and reside here, and his or her family, both within this Government, and do and perform all the duties required of other like citizens, for a term of three years, after which time and several acts, he or she shall have and receive an unconditional patent for said land ; and in no case whatever shall a grant of that description be patented, unless it be satisfactorily proven that all the conditions of the grant have in fact and in good faith been complied with. And all single free white men, who may emigrate to the country after the first day of January next, shall be entitled to six hundred

and forty acres of land; and, so soon as they shall marry, they shall receive an additional quantity of six hundred and forty acres of land upon the same conditions above named; and all laws contrary to the purview and meaning of this act are hereby repealed and declared null and void, so far as regards their future operation.

Sec. 25. And be it further enacted, That in case any survey shall cross the dividing line between any two counties, it shall be competent for the register who issued this order of survey to proceed in the same manner as though the land was wholly situated within his land district.

Sec. 26. And be it further enacted, That in case doubts should arise as to the boundary line of any land district, it shall be competent for the registers of the two land offices concerning whose boundary the doubt exists to determine the doubt, and agree upon the line between them, which shall be as valid in law as though the said line had been defined by act of this Congress; and in case they cannot agree, then and in that case the chief justice of the county court whose office is situated nearest the said disputed line shall decide.

Sec. 27. And be it further enacted, That the commissioner general of the land office furnish, at the public expense, such books and stationery as may be necessary for the transactions of the several land offices.

Sec. 12. And be it further enacted, That if the President should deem it proper to do so, in consequence of an invasion or threatened invasion of our country by an enemy, that he be and is hereby authorized to issue his proclamation, closing or suspending all operations of the several land offices; and further, that he be authorized, when he may think it proper to do so, to again by proclamation open and authorize them to proceed to the execution of the duties of the several offices, as the law directs.

IRA INGRAM,
Speaker of the House of Representatives.
RICHARD ELLIS,
President pro tem. of the Senate.

Vetoed by the President, and passed by a constitutional majority of the House of Representatives, December 22, 1836.

IRA INGRAM,
Speaker of the House of Representatives.

Vetoed by the President, and passed by a constitutional majority of the Senate, December 22, 1836. RICHARD ELLIS,
President pro tem. of the Senate.

Pages 263, and 264, and 265, of the volume of the Laws of Texas.

An act supplementary to an act entitled "An act to establish a general land office for the republic of Texas, passed December 22, 1836."

Sec. 1. Be it enacted by the Senate and House of Representatives of the republic of Texas, in Congress assembled, That the land office,

as established by the act passed on the 22d day of December last, shall go into operation on the first day of October next, unless the country shall be invaded to an extent inducing the President to call out at least one-third of the militia for its defence; in which case the President shall have power to close the land office, by proclamation, until such invasion has terminated

Sec. 2. Be it further enacted, etc., That the whole republic of Texas shall be sectionized as follows: One base line and four meridian lines shall be run, in such manner as the commissioner of the general land office shall direct; provided, that no locations or surveys heretofore made agreeably to law shall be affected by such sectionizing; and provided further, that these sectional lines shall not affect the previous or future surveys of land; but all lands, surveyed for individuals or for the government, lying on water-courses, shall front one-half of the square on the water, the line running at right angles with the general course of the stream; and all others not on water-courses shall be square, if previous lines will permit; and if not, to be run as circumstances will permit.

Sec. 3. Be it further enacted, etc., That in all cases the registers and receivers of the land offices shall be furnished with written instructions by the commissioner of the general land office, for their government.

Sec. 4. Be it further enacted, etc., That after the first day of October next, no individual arriving in the country shall be entitled to land as an emigrant; and from this time forward no more bounty land shall be given, as an inducement to any one to enter into service in the army of Texas.

Sec. 5. Be it further enacted, etc., That it is hereby declared that all empressarios' contracts having ceased on the day of the declaration of independence, all the vacant lands of Texas are the property of this republic, and subject alone to the disposition of the government of the same.

Sec. 6. Be it further enacted, etc., That it is hereby made the duty of all empressarios, commissioners, political chiefs, alcaldes, and other persons, to delivery over to the commissioner of the general land office all titles, surveys, books, papers, documents, or other things in their possession or charge, belonging to this republic, or which by this act is made public property, and so contemplated to be delivered over as aforesaid, which shall be delivered over, as aforesaid, on the application in person of said commissioner, or to his order, in writing.

Sec. 7. Be it further enacted, etc., That, should any empressario refuse to comply with the provisions of the foregoing section, he shall be liable to prosecution, and shall, on conviction, forfeit to the government of Texas all premium lands granted, or which he could claim by virtue of his said contract; and should any commissioner, political chief, alcalde, or other person, refuse to comply with the provisions of the foregoing section, he shall be liable to prosecution, and shall, on conviction, be fined in the penal sum of twenty thousand dollars, and he

shall, moreover, be imprisoned until he deliver up said surveys, books, etc., as required by law: Provided, That all prosecutions under this act shall issue from, and be tried at, the seat of government of this republic.

Sec. 8. Be it further enacted, etc., That, in order to settle the claims of empressarios, each and every one of the same are hereby authorized to institute a suit against the President of the republic of Texas and his successors in office; which suit or suits shall be tried in the county in which is situate the seat of government of the republic of Texas, and shall be tried as all other land suits are required by law to be tried; and should any empressario who shall thus sue fail to establish the claim for which he sues, he shall pay all the costs of such suit: Provided, That neither aliens, nor the assignees of aliens, shall be entitled to the benefit of this act.

Sec. 9. Be it further enacted, etc., That it shall be the duty of the attorney general to attend to all such cases in behalf of the republic of Texas; and he shall receive, as a compensation for his services, the sum of five hundred dollars, in each and every case; and the President is authorized to employ such additional counsel as in his opinion he may deem proper; provided, however, such compensation shall not exceed the compensation allowed the attorney general.

Sec. 10. Be it further enacted, etc., That it shall be duty of the President to appoint, during the present session of Congress, all the officers contemplated by the land law passed on the twenty-second day of December last.

Sec. 11. Be it further enacted, etc., That it shall be the duty of the surveyor, upon returning the field notes of any survey, to certify upon oath that said survey was made, either previous to the closing of the land office, by the consultation, or subsequent to the opening of the land office, by the present session of Congress, as the case may be, which shall also be certified by the chain-carriers, if to be found in the republic, and if not, by at least two respectable witnesses.

Sec. 12. Be it further enacted, etc., That the secretary of War shall immediately, from and after the passage of this act, issue, to all persons entitled to bounty lands for military services in this republic, a certificate or certificates of the same, and shall keep a record in his office of all such certificates so issued by him, upon the applicant having an honorable discharge, signed by the commanding officer of the company to which he was attached, and countersigned with certificates of at least one field officer or commandant of a post.

Sec. 13. Be it further enacted, etc., That it shall be the duty of the surveyor general of each land district to appoint not less than six deputy surveyors in his land district, and as many more as he may deem necessary, and shall assign to each deputy a certain portion of territory, in which no other surveyor shall be allowed to survey.

Sec. 14. Be it further enacted, etc., That each deputy surveyor shall, before entering on the duties of office, give a bond, payable to the President of the republic of Texas, and his successors in office, in

the penal sum of ten thousand dollars, with at least two securities, to be approved of by the surveyor general, conditioned for the faithful performance of the duties of his office.

B. T. ARCHER,
Speaker of the House of Representatives.
JESSE GRIMES,
President pro tem. of the Senate.

Vetoed by the President, and passed by a constitutional majority of the House of Representatives, June 8, 1837.

B. T. ARCHER,
Speaker of the House of Representatives.

Vetoed by the President, and passed by a constitutional majority of the Senate, June 12, 1837.

JESSE GRIMES,
President pro tem. of the Senate.

And on the further trial of this cause, on the day and year last above written, the United States district attorney having objected to the volume purporting to be the laws of Texas on the ground that it was not proved, James Taylor was sworn, in behalf of the petitioners, and testified in open court; which testimony was reduced to writing, contained in a certain document marked T, and is in the words and figures following, to wit:

United States district court, district of Louisiana.

YATES & MCINTYRE
vs.
THE UNITED STATES.

James Taylor being duly sworn, on behalf of petitioners, in open court, this 24th day of February, 1846, deposes, that he is a lawyer by profession; lives at Natchitoches, in Louisiana; has gone the circuit in Texas, and practised law there a little. On looking into a volume now offered in evidence by the counsel for petitioners, as containing the laws of Texas, witness says, he has no doubt said volume is a correct copy of the laws of Texas; he is well satisfied that it is such.

Signed, L. E. SIMONDS,
Deputy clerk.

And on the further trial of this cause, on the day and year last above written, the counsel for petitioners offered in evidence page 91 of a volume entitled "Abstract of the original titles of record in the general land office," printed in accordance with a resolution of the House of Representatives, passed the 24th of May, 1838. The portion of said page offered in evidence reads as follows, to wit:

Names of grantees.	Date of titles.	Leagues.	Where situated.	Remarks.
Jacinto Mora -	Dec. 10, 1795	6	At a place called after Ormigas, 25 leagues from Nacogdoches.	Certified copy.
Edward Murphy -	Aug. 20, 1798	-	One place on the La Nana, on the road from Nacogdoches to Natchitoches, about seven leagues from the Sabine.	

And, on the further trial of this cause, the counsel for petitioners offered in evidence an act of the dissolution of the partnership of Edward Murphy, William Barr, Luther Smith, and Samuel Davenport, marked U; but the district attorney, counsel for the respondents, objecting thereto, the court ordered the following memorandum to be made and placed on record, to wit, the United States district attorney objects to the introduction in evidence of document marked U on the ground that it is a private instrument; but the court overruled the objection, and admitted said document in evidence.

Document marked U.

This instrument of writing witnesseth, that the partnership in commerce that has existed between Edward Murphy, William Barr, Luther Smith, and Samuel Davenport, since the year one thousand seven hundred and ninety-eight, is this day dissolved by mutual consent of all the partners, and the property belonging to said partnership divided and disposed of in the following manner, viz:

The house and plantation which Edward Murphy now lives on, with all the appurtenances thereunto belonging, is transferred to him, his heirs and assigns forever, together with the tract adjoining it, which we purchased of Lewis Buard, the whole estimated at six thousand dollars; all the debts due to the partnership at Natchitoches, agreeable to the list of them furnished by him, to [the] amount of nineteen thousand one hundred and forty-two dollars four bits, estimated to be worth twelve thousand dollars, for which sums, amounting to eighteen thousand dollars, the partnership has received full value, and do by these presents relinquish all claim, right, or title to said property, or any part thereof, in favor of said Edward Murphy, his heirs [and] assigns, forever.

Also, the aforesaid partnership do cede to Luther Smith the two tracts of land belonging to the partnership, one lying on Thompson's creek, and the other in the fork between the river Comite and Amite, with all the debts due to [the] company from the result of his sales of horses, &c., as appears by a list of them, presented by him, to [the] amount of two thousand four hundred and ninety dollars and two

bits, which, with the above mentioned tracts of land, he receives as his full share of all the profits arising from the business done by said partnership, relinquishing all claim to any other property owned by the said company, except what will be hereafter mentioned. Also, the partners have sold him mules and horses, which are now at Avoyelles and bayou Chicot, for the sum of seven thousand dollars, which he has satisfied the partnership for. It is also agreed upon, that all the remaining property, debts, &c., except what will be hereafter specified, that belongs to the partnership, is transferred to Edward Murphy, William Barr, and Samuel Davenport, as their shares, out of which must be paid to Edward Murphy the sum of six thousand nine hundred and twenty-eight dollars, which is the balance due him of the whole sum the partnership was indebted to him.

It is also agreed on by the partners, that the tracts of land which belong to said concern, known by the name of La Nana tract, consisting of four leagues square, and the Ormigas tract of six leagues square, is not included in the separation of the property belonging to said partnership, as already specified, and continues to remain as belonging equally to said partners, their heirs, and assigns, to be hereafter disposed of, as they may agree upon, the titles of which remain in possession of William Barr and Samuel Davenport. It is also agreed upon, and understood by these presents, that the tract of land belonging to the partnership, known by the name of the Presidio Viexo, consisting of five leagues square, and lying on the river Angartine, about six leagues west of Nacogdoches, is by these presents ceded to William Barr and Samuel Davenport, their heirs and assigns, forever; the other two partners, Edward Murphy and Luther Smith, relinquishing all their right and claim to said tract of land, or any part thereof, in favor of said Samuel Davenport and William Barr, their heirs and assigns, they having accounted with said partnership for the full value thereof.

In testimony of which, the within named partners have thereunto set their hands and seals, at Natchitoches, this ninth day of October, one thousand eight hundred and six.

Signed,

E. MURPHY,
LUTHER SMITH,
SAMUEL DAVENPORT,
WILLIAM BARR,

By his attorney in fact,

SAMUEL DAVENPORT.

Signed and sealed in presence of—
WILLIAM MARP,
WILLIAM OWENS.

I hereby certify the above and foregoing to be a true copy of the original on file and of record in my office.

[SEAL.] Given under my hand and official seal, at Natchitoches, this 18th day of February, A. D. 1845.

Signed, C. E. GRENEAUX, *Parish Judge.*

And of the proceedings above mentioned, on the day and year last above written, the following extract is taken from the minutes of the court:

Extracts from the minutes, 24th February, 1845.

YATES & MCINTYRE
vs.
THE UNITED STATES.

The trial of this cause was resumed this day by the offering of further evidence on behalf of petitioners. It was then ordered, that the further hearing of the cause be continued till to-morrow at 10 o'clock, a. m.

The court then adjourned.

And on the further trial of this cause, on the 25th day of February, 1846, the counsel for petitioners offered in evidence certain certified copies of letters from E. Hayward to C. Johnson, chairman committee private land claims, House of Representatives; from Elijah Hayward to Silas M. Stillwell, esq.; from Ethan A. Brown to the register of the land office at Opelousas, in Louisiana; from Ethan A. Brown to W. K. Fuller; from James Whitcomb to the register and the receiver at Natchitoches, in Louisiana; from James Whitcomb to the register and the receiver at Opelousas in Louisiana; from James Whitcomb to Ogden Hoffman, of New York; from Patrick O. Lee, the register of the Northwestern land office to James Whitcomb, commissioner of the General Land Office; and the extract of a letter from John M. Moore, acting commissioner of the General Land Office, to Samuel D. King, all of which letters are contained in document marked V, and are as follows:

Letter from E. Hayward to Cave Johnson.

7th January, 1832.

SIR: I have to acknowledge the receipt of your letter of the 27th ultimo, respecting the claims of Samuel Davenport to several large tracts in the Neutral territory, and enclose herewith a copy of so much of the report of the board of commissioners for the western district of Louisiana, dated 4th of May, 1815, upon lands in the county of Natchitoches, as relates to the claim of the mercantile firm of Edward Murphy and others, of which firm Mr. Davenport was one of the partners, no claim having been reported in the name of Mr. D. alone. The report of the register and receiver at Opelousas under the act of Congress of the 3d of March, 1823, (Land laws, page 843,) upon claims in the Neutral territory, having been printed by order of the House of Representatives on the 13th of January, 1826, as Document No. 50, 1st session of the 19th Congress, I beg leave to refer you to No. 143, page 67; No. 180, page 81; No. 181, page 83; and No. 224, page 105, of that document, for their reports upon those claims; and to pages 3, 4, 5, 6, and 7, for the evidence they collected respecting the powers of the commandant at

Nacogdoches to make grants of land. For the powers of the officers of Spain to dispose of the royal domain, I would also beg leave to refer you to the printed document No. 121 of the House of Representatives, 2d session of the 20th Congress, as containing all the information upon that subject in the possession of this office. I also enclose, for the information of the committee, a copy of so much of the commissioners' report of the 5th of May, as relates to the claim of Joseph Piernass under Jacinto Mora, and which appears to me to be for the same tract as the one reported by the commissioners as No. 40, and by the register and receiver as No. 181, in the name of Murphy and others, under Jacinto Mora.

With great respect, &c., E. HAYWARD.

Hon. CAVE JOHNSON,
Ch. Com. Private Land Claims, Ho. of Reps.

Letter from Elijah Hayward to Silas M. Stillwell, esq., of the city of New York.

GENERAL LAND OFFICE, *2d May*, 1835.

Sir: The Hon. Mr. Butler has referred to this office for an answer, your letter to him of the 15th ultimo, in relation to the claim of Davenport and others, to a tract of six square leagues on the Sabine river, in the Neutral territory, designated as No. 181, in the report of the register and receiver at Opelousas, under the provisions of the acts of Congress, of the 3d of March, 1823, and 26th of May, 1824. In reply to your inquiry, I have to state, that that claim has not been confirmed by Congress, it being included in the "first class" of that report; and I enclose herewith, for your information, an extract of so much of the report, made to the House of Representatives by Mr. Whipple, of the committee on public lands, as states the objections to all the claims embraced in that class, and which contains all the information in relation thereto which it is in my power to furnish.

With, &c.

ELIJAH HAYWARD.

SILAS M. STILWELL, esqr.
City of New York.

Letter from Ethan A. Brown to the register of the land office at Opelousas, Louisiana.

GENERAL LAND OFFICE, *11th May*, 1836.

Sir: Henry Yates, esq., of the city of New York, having informed this office, through the Hon. W. Fuller, that he is the owner of part of the lands claimed by Samuel Davenport and others, entered as claims numbers 150 and 181, in the report of the register and receiver upon claims between the Rio Hondo and Sabine, and that he has been advised that sales of portions of lands within those claims have been made at your office; I have not been enabled, in consequence of the lines of

those claims not being represented upon the plats in this office, to ascertain what sales, if any, have been made interfering with those claims, and have therefore to request, that you forthwith advise this office of the position of those claims, with reference to the lines of the public surveys, so far as they can be ascertained from the papers and records in your office, and such other unquestionable evidence upon those points as may be accessible to you, and furnish me with a list of all sales which may have been made within such lines. These claims having been duly filed, for the purpose of examination, with the land office, are not subject to entry, and if you have not already done it, you are directed to mark them, as accurately as possible, upon the maps, to prevent any interfering sales hereafter.

Very, &c.

ETHAN A. BROWN.

THE REGISTER OF THE LAND OFFICE,
At Opelousas, Louisiana.

Letter from Ethan A. Brown to the Hon. W. K. Fuller, of the Ho. of Reps.

GENERAL LAND OFFICE, 11*th May*, 1836.

Sir: I have the honor to return the letter of Mr. Yates, left by you at this office, stating that he had been informed that a part of the land included in the claims of S. Davenport and others, designated as Nos. 180 and 181, in the report of the land office at Opelousas, upon claims between the Rio Hondo and Sabine, had been sold by those officers, and as owner of a part of each of those claims protesting against such sales. As the claims in question are not laid down upon the official plats of survey returned to this office, it is not in my power to say whether the information received by Mr. Yates is correct or not, and I have therefore written to the register at Opelousas upon the subject, and herewith enclose for your information a copy of my letter of this date to him, requesting a report of the facts, and cautioning him from making any sales within the limits of those claims, so far as they can be ascertained. So soon as the required report is received, you shall be further advised upon the subject.

I am, &c.

ETHAN A. BROWN.

Hon. W. K. FULLER,
House of Reps.

Letter from Jas. Whitcomb to the register and receiver at Natchitoches, Louisiana.

GENERAL LAND OFFICE, *Jan'y* 8, 1839.

GENTLEMEN: I enclose herewith a copy of a communication of the 5th inst., from the Hon. Og. Hoffman, relative to certain claims entered in the first class of the report of the 1st of November, 1824, of the

register and receiver at Opelousas, as Nos. 180 and 181, in the names of Samuel Davenport and others. Claims of this description, as you are apprised, should be excluded from sale. In relation to the two claims above mentioned, which it is believed are now within your district, a letter dated 11th of May, 1836, a copy of which is also enclosed, was addressed by my predecessor to the register and receiver at Opelousas, in order to ascertain "the position of those claims, with reference to the lines of the public surveys, so far as they can be ascertained from the papers and records in" their office, and such other unquestionable evidence upon these points as might be accessible to them, and with a view of procuring, at the same time, a list of all sales which may have been made within the lines of the claims referred to. By that letter those officers were advised that these claims are not subject to entry, and they were directed, in case they had not already done so, "to mark them as accurately as possible upon the maps, to prevent any interfering sales hereafter." To that letter no reply appears to have been received. The object of this communication is to request that you will furnish me a list of any and all sales that may have been made, of tracts within the limits of the said claims, and also to request a strict compliance on your part of the other requisitions of that letter. I have also written to the officers at Opelousas to furnish you immediately with all the information in their power in relation to the position, &c., of the said claims.

Very respectfully, your obt. servant,

JAS. WHITCOMB,
Commissioner.

REGISTER AND RECEIVER,
Natchitoches, Louisiana.

Letter from Jas. Whitcomb to the register and receiver at Opelousas, Louisiana.

GENERAL LAND OFFICE, *January 8th*, 1839.

GENTLEMEN: In relation to claims of Samuel Davenport and others, entered as Nos. 180 and 181 in the report of the register and receiver, on claims between the Rio Hondo and the Sabine river, a letter dated 11th of May, 1836, was addressed to your office by my predecessor, to which no reply appears to have been received. A copy of that letter is enclosed, and as the said claims are believed to be now within the limits of the northwestern district, I request that you will, immediately, furnish the officers at Natchitoches with all the information in your power, as respects the position, &c., of the said claims, so as to enable them fully to respond to the requirements of the enclosed.

Very respectfully, your obdt. servant,

JAS. WHITCOMB,
Commissioner.

REGISTER AND RECEIVER,
Opelousas, Louisiana.

Letter from Jas. Whitcomb to Ogden Hoffman, of New York.

GENERAL LAND OFFICE, *April 8th*, 1839.

SIR: On the 8th January last, I had the honor to acknowledge the receipt of yours of the 5th of that month, accompanied by a copy of a letter from A. McIntyre, of Albany, respecting certain claims in the names of Samuel Davenport and others, and to inform you that, with a view of ascertaining the positions of these claims as respects the public surveys; and also of ascertaining whether any, and if so, what portion of them had been sold, I would write to the proper district officers in Louisiana. I have now to advise you, that in reply to a letter written by me I have received a communication, dated the 28th February last, from the register of the northwestern land district of Louisiana, furnishing the information desired, by giving a description of the tracts, (a list of which is annexed,) that had been sold within the limits of these claims, and representing that the said claims had been suspended from sale, &c.

Very respectfully, your obt. servant,

JAS. WHITCOMB,
Commissioner.

Hon. OGDEN HOFFMAN,
New York.

Entries at Natchitoches.

In T. 7, R. 11 W., the E. ½ of the S. E. qr. of sec. 12, the S. W. qr. of sec. 13, and the N. W. qr. of sec. 36, same township.

The entries which appear on the township maps, made at Opelousas, are as follows:

In T. 6, R. 12 W., the S. E. qr. of sec. 14 only.

In T. 7, R. 11 W., the S. W. qr. of sec. 1, the W. ½ of the N. E. qr., the E. ½ of the N. W. qr., and the S. E. qr., sec. 12, the S. E. qr. of sec. 26, and the S. ½ of the W. ½ of the N. E. qr. of sec. 28.

Letter from Patrick O. Lee to James Whitcomb.

NORTHWESTERN LAND OFFICE, *28th February*, 1839.

To JAMES WHITCOMB, esq.,
Commissioner of the General Land Office, &c.

SIR: In compliance with your request of the 8th ultimo, herewith enclosed are copies of a connexion of the lines of the original surveys of the claims of Samuel Davenport and others—report Nos. 180 and 181—with the lines of the public surveys, as connected by G. S. Walmsley, U. S. deputy surveyor, at the request of the claimants; the whole of which, as represented on said maps, have been suspended from sale. The entries permitted in this office, previous to a knowledge of the locality of these claims, are as follows, viz:

In T. 7 N., R. 11 W., the E. ½ of the S. E. qr. of sec. 12, the S. W. qr. of sec. 13, and the N. W. of sec. 36, same township.

The entries which appear on the township maps, made at Opelousas, are as follows:

In T. 7, R. 11 W., the S. W. qr. of sec. 1, the W. ½ of the N. E. qr., the E. ½ of the N. W. qr., and the S. E. qr. of sec. 12, the S. E. qr. of sec. 26, and the S. ½ of the W. ½ of the N. E. qr. of sec. 28. In T. 6, R. 12 W., the S. E. qr. of sec. 14 only.

There are other claims similarly situated, the sale of which has been suspended; when their precise location is known, will be forwarded. Urgent necessity requires my presence at New Orleans for a few days. I hope it will not be considered improper; the throng of business is nearly over.

I have the honor to be, very respectfully, your obedient servant,

PATRICK O. LEE, *Register.*

Extract of a letter from John M. Moore, esq., acting commissioner of the General Land Office, to Saml. D. King, esq., dated September 19th, 1844.

SIR: In reference to your inquiry respecting the issuing of patents for the claims referred to Opelousas patent certificates, Nos. 618, 747, and 748, I have to inform you that, on examination, I find the state of these cases to be as follows:

1st. The settlement claim of Raimond Dailey, for 640 acres, is entered as No. 198, in the Rio Hondo reports, dated Nov. 1st, 1824, (Amer. St. Papers, public lands, vol. 4, p. 63, printed by D. Green,) and is confirmed by the act of Congress, approved 24th May, 1828, (acts 1828, p. 104,) entitled "An act to confirm claims to lands in the district between the Rio Hondo and Sabine river, founded on habitation and cultivation."

The 2nd sect. of the act provides, that the confirmation by said act shall not be construed to extend farther than to a relinquishment of title on the part of the United States, and requires the claim confirmed thereby to be located, under the direction of the register and receiver, in conformity with legal subdivisions, and to "include the improvements of the claimants respectively."

Sec. 14, containing 639.36 acres, T. 7 N., R. 11, West Louisiana, has been designated as the location of the said claim. This location falls within the limits of the unconfirmed claim of Samuel Davenport and others, known as the "Lanana" tract, entered as No. 180, in the 1st class of the said Rio Hondo reports, as claimed in virtue of a grant, approved and signed by the commandant of the post of Nacogdoches, 4th August, 1798. Same vol., State Papers, page 60.

For said section there has been transmitted to this office, by E. A. Seaton, esqr., a plat; also a transcript of a deed, dated 21st December, 1833, from Raimond Dailey to John H. Thompson, for said section; also, on the same sheet, a transfer, dated 11th April, 1843, from said John H. to George W. Thompson, acknowledged before Guy H. Bell, without a certificate of his official character. There has been received

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at this office, from G. W. Thompson; also a transcript of a deed, dated 24th May, 1841, from said John H. to George W. Thompson, for said section; and a patent is applied for in favor of said George W. Thompson, as assignee of John H. Thompson, under Raymond Dailey. In reference to this application I have to state, that I have not been able to find any evidence of the return to this office of patent certificate No. 618, which appears was issued September 22d, 1832, by the register at Opelousas, in this case; but that, if the certificate were on file, I would not feel authorized in issuing a patent in the case, in view of the fact that the confirmatory act is silent as to the issuing of patents for the claims confirmed thereby. And the late Secretary of the Treasury, Mr. Spencer, referring to authority for issuing of a patent, decided as follows: "Such authority is in all cases given in express terms by some statute; without it, the Executive cannot issue one." It is proper, also, to state that, under the general practice of this office, patents for private claims in Louisiana issue to the confirmee or his legal representatives—thus "A B, or his legal representatives," leaving the claimants to hold under the patent, and such evidence of the conveyance as they may possess from the confirmee. In view of the facts stated in the foregoing, and of the decision adverted to, you will perceive that it is not now in my power to issue the patent.

GENERAL LAND OFFICE.

I, James Shields, commissioner of the General Land Office, do hereby certify, that the foregoing, on pages 1, 2, 3, 4, 5, 6, and 7, are true copies from the records in this office; that the copy on page 8 is a true copy from a letter on file in this office; and that the extract, on pages 9 and 10, is a true extract from the records of this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of the said office to be affixed, at the city of [L. S.] Washington, this fourteenth day of July, one thousand eight hundred and forty-five.

(Signed) JAMES SHIELDS, *Commissioner.*

And on the further hearing of this cause, on the day and year last above written, the counsel for petitioners offered in evidence a certain document annexed to the petition herein, entitled "A list of Rio Hondo claims and entries, embraced within that portion of the Las Ormigas and La Nana grants (reported under Nos. 180 and 181) owned by Archibald McIntyre and Henry Yates," marked E.

And on the further hearing of this cause, on the day and year last above written, the counsel for petitioners offered in evidence a certified copy of the evidence taken by the register and receiver, as commissioners, being the same which is reported in the American State Papers, and already in evidence in this cause.

Agreement of counsel.

It is now agreed between the counsel for the petitioners and for the

respondents, that the written testimony be dispensed with, and that said printed testimony be received.

And on the further hearing of this cause, on the day and year last above written, the counsel for petitioners offered in evidence certified copies from the land office at Opelousas of the notices of claimants, and of the reports of the register and receiver, contained in document marked W, which is in the words and figures following, to wit:

Document marked W.

Land district, south of the Red river.

Pursuant to "an act providing for the execution of the titles to lands in that part of the State of Louisiana situated between the Rio Hondo and Sabine river," approved March 3d, 1823, Samuel Davenport, the heirs and legal representatives of Edward Murphy, all of the parish of Natchitoches, the heirs and legal representatives of Luther Smith, of the State of New York, and the heirs and legal representatives of William Barr, of the State of Pennsylvania, give notice to the register and receiver that they claim a tract of land situated on the east margin of the Sabine river, lying at a place called "Las Ormigas," having such marks and boundaries as is represented in a plat of survey made by Wm. McLuter, deputy surveyor of the United States lands, and containing six leagues square, equal to 207,360 American acres, and being *with* the district of country, previous to the late treaty between the United States and Spain, called the Neutral territory. Claimed by virtue of concession and other proceedings, signed and approved by Bernard Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jacinto Mora, which land said Jacinto Mora, by sale under authentic act, dated 22d July, 1805, transferred to Wm. Barr & Co., a firm composed of said William Barr, now deceased, the said Samuel Davenport, the said Edward Murphy, now deceased, and the said Luther Smith, now deceased.

S. DAVENPORT,
For himself and co-claimants.

LAND OFFICE, OPELOUSAS, LA.,
May 26th, 1845.

I, Peter L. Hebrard, register of the land office aforesaid, and in charge of the archives thereof, do hereby certify, that the foregoing is a true and correct copy of the original notice filed by said Samuel Davenport for himself and co-claimants, in the claim of said Samuel Davenport, William Barr, Edward Murphy, and Luther Smith, to the "Las Ormigas" tract, and in report No. 180 of the register and receiver at Opelousas, dated the 1st November, 1824, and that the said original notice is now on file and of record in my office.

In testimony whereof I have hereunto set my hand, and private seal of office, on the day, month, and year above written.

[L. S.]

P. HEBRARD, *Register.*

No. 178.—The heirs and legal representatives of Samuel Davenport, Luther Smith, and Wm. Barr, claim four leagues of land situated in the east of the river Sabine, on the public road leading from the town of Natchitoches to Gaines' Ferry in said river, at a place called Nana, (mother.) This claim is founded on a concession made by Dn. Jose M. Guadiana, commandant of the *poste* of Nacogdoches, Texas, dated August 4th, 1798, to Edward Murphy, and conveyed by act of sale on the 3d November, 1798, to Wm. Barr & Co., a commercial partnership there existing, whose members were Samuel Davenport, Edward Murphy, Luther Smith, and Wm. Barr. This claim was reported on by the register and receiver on the 1st November, 1824, under the number 180, and recommended for confirmation, to which the claimants refer, and to the 3d vol. of American State Papers, (Seaton & Gales, page 85, No. 46,) which furnishes all the evidence in this claim.

LAND OFFICE, OPELOUSAS, LA.,
March 19th, 1845.

I do hereby certify, that the foregoing is a true and correct copy of the original report of the register and receiver of this land office, upon the claim numbered in the report of said officers, on the 30th of May and 6th of June, 1840, as number 178. And further, I do certify, that the original papers filed in support of the claims embraced in said reports, have been sent to Washington, and have not yet been returned to this office.

In testimony whereof I have hereunto set my hand and private seal [L. S.] of office, on the date above written.

P. HEBRARD, *Register*.

Land office, south of Red river.

Pursuant "to an act providing for the execution of the titles to lands in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river," approved March 3d, 1823, Samuel Davenport, the heirs and representatives of Edward Murphy, all of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, of the State of Pennsylvania, give notice to the register and receiver that they claim a tract of land lying east of the Sabine river, on the public road from Natchitoches to Gaines' Ferry, on said river, at a place called "La Nana," having for its centre the prairie which joins the bayou of said La Nana, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie, and lying and being within the district of country, previous to the treaty between the United States and Spain, *call* the Neutral territory. Claimed by virtue of a grant and other proceedings, approved and signed by Dn. Jose Ma. Guadiana, commandant of the post of Natchitoches, the 4th of August, 1798, in favor of said Edward Murphy, now deceased, which tract of land was on the 3d of Novem-

ber, 1798, by the grantee conveyed to the commercial partnership then existing between himself, said Murphy, said Samuel Davenport, said Luther Smith, now deceased, and said William Barr, now deceased.

S. DAVENPORT,
For himself and co-claimants.

LAND OFFICE, OPELOUSAS, LA.,
May 26th, 1845.

I, Peter L. Hebrard, register of the land office aforesaid, and in charge of the archives thereof, do hereby certify, that the foregoing is a true and correct copy of the original notice filed by said Samuel Davenport, for himself and co-claimants, in the claim of said Samuel Davenport, William Barr, Edward Murphy, and Luther Smith, to the La Nana tract, and in report No. 180 of the register and receiver at Opelousas, dated 1st November, 1824, and that the said original notice is now on file and of record in this office.

In testimony whereof I have hereunto set my hand and private seal of office, on the day, month, and year above written.

[L. S.] P. HEBRARD, *Register.*

No. 179.—The heirs and legal representatives of Samuel Davenport, Luther Smith, and Wm. Barr, claim a tract of land lying in the late Neutral territory, situate on the east margin of the river Sabine, containing six square leagues, at a place called "Las Ormigas," claimed by virtue of a concession granted December 15th, 1795, to Jacinto Mora, and by him conveyed to the claimants; said concession having been made to said Mora by Bernardo Fernandez, lieut. governor of Nacogdoches. This claim was reported on the 1st November, 1824, by the register and receiver, and recommended for confirmation under the number 181, to which the claimants refer, and also to the American State Papers, (Seaton and Gales, 3d vol., page 80, No. 49,) which furnishes all the evidence of this claim.

LAND OFFICE, OPELOUSAS, LA.,
March 19th, 1845.

I do hereby certify, that the foregoing is a true copy of the report, No. 179, embraced in the reports of the register and receiver of 30th May, and 6th June, 1840. And I do further certify, that the original papers filed in support of the claims embraced in said reports, have *be* sent to Washington, and have not yet been returned to this office.

In testimony whereof I have hereunto set my hand and private seal of office, on the day, month, and year above written.

[L. S.] P. HEBRARD, *Register.*

And on the further hearing of this cause, on the day and year last above written, the counsel for petitioners offered in evidence a letter from Herrera to Col. Thomas Cushing, dated August 6th, 1806, in the

2d vol. of American State Papers, title Foreign Relations, p. 801, which is in the words and figures following, to wit :

PLANTATION OF MR. PRUDHOMME,
August 6, 1806.

SIR : With all possible respect I answer your excellency's letter which was delivered to me, at this place, by Moses Porter, major of artillery of the United States.

It is true that I have crossed the Sabine river with a detachment of troops belonging to the King, with orders from the captain general (by whom I am governed) to keep this territory from all hostile attempts, as belonging from time immemorial to the King, and which is a dependance on the province of Texas. The inhabitants still acknowledge obedience to our government, notwithstanding the violence committed on a small detachment of our troops by those of the United States.

From this moment I hold myself responsible to the real letter of the orders that govern me, which are, by no pretext whatsoever, to interrupt or break the good intelligence which subsists between his Majesty and the United States; but I cannot permit, without violating my duty, any usurpation upon the land he possesses. If your excellency makes any infringement, you alone will be answerable to the two courts, and may interrupt the amicable convention, perhaps now on foot, but of which I have no knowledge.

I did not send a translation of this in French or English, not having any person capable of translating, with purity, a thing of so serious a nature.

I felicitate myself of this opportunity in offering my best services.

Your very humble servant,
SIMON DE HERRERA.

SENOR DON THOMAS CHUSHING,
Commander of a detachment of the army of the United States.

And on the 25th of February, 1846, the following note of evidence was made by the clerk :

Also a deed from the sheriff of the parish of Sabine to George W. Thompson, under a tax sale, together with the assessment, &c., connected with said sale. This document is not now filed, but is considered in evidence, and is to be filed so soon as it shall be received from parish of Sabine.

And further, on the 25th day of February, 1846, the following admission was made by the counsel for respondents, to wit :

It is admitted by counsel for respondents, that the present parish of Sabine is a portion of, and has been erected out of, the original parish of Natchitoches.

And further, on the 25th day of February, 1846, the counsel for petitioners further offered in evidence the commissioners' report in 1825,

vol. 4, Am. St. Papers, tit. Public Lands, p. 75, No. 82, in the tabular statement. Claim of Lafitte, as follows:

Second Class.

No.	Name of claimant, nature of title, and by whom issued.	Titles when issued.	Titles to whom issued.	Date of transfer, persons transferring, and to whom.	Extent.	Quantity.
82.	Pierre Lafitte, conditional grant by commandant of Nacogdoches.	June 12, 1784.	Claimants.		Special.	11,393.89

And further, on the 25th day of February, 1846, the counsel for petitioners offered in evidence, from the American State Papers, vol. 4, p. 46, No. 82, title Public Lands, which is in the words and figures following, to wit:

82. Pierre Lafitte, of the parish of Natchitoches, filed his notice, claiming by virtue of grant signed by the lieutenant governor of Nacogdoches, bearing date June 12, 1784, in favor of Pierre and Baptiste Lafitte, and by virtue of occupation, inhabitation, and cultivation, for more than thirty years, a tract of land lying within the late Neutral territory, and situated between the bayou Nadier to that named Nabancha, (the first now called bayou Pierre, and the last Nanticob,) containing 11,393.89 acres, agreeably to a plat of survey drawn by John Dinsmore, deputy surveyor of the United States, dated 6th September, 1823. The claim is supported by the original grant filed with the notice, of which the following is a translation:

"Don Antonio Gil y Barvo, captain of militia and lieutenant governor military and political of the town of Nacogdoches and its jurisdiction, in consequence of the prayer of Pierre and Baptiste Lafitte, inhabitants of this jurisdiction of Texas, with the approbation of their father, Paul Bonett Lafitte, inhabitant of said province, and residing for many years in the place called the bayou Pierre, the route which strangers pass through with merchandise for the Indian trade, and to furnish nations at war with this province; that they may be granted lands in said place, with the necessary extension, for the pasturing and breeding of cattle and horses of every description, obliging themselves with the commission of the superior authority, to guard, watch, and impede strangers from passing without a legal passport from the territorial magistrate of said province; in virtue of which, and in consideration of the above, and being well informed of the good conduct of the petitioners, I have agreed on giving them possession of the said place, and the lands they solicit, charging them to proceed in a legal manner as regards their undertaking. Signed at Nacogdoches, this 12th June, 1784.

Signed, ANTONIO GIL Y BARVO.

Let it be well understood, that said concession of land is granted from the bayou that is named Nadier, to that named Nabancha, for the pasturing of their stock, which grant, I hope, will meet the approbation of the governor of this province. In testimony, &c.

GIL Y BARVO."

The following testimony, taken before the board, was also filed:

Andre Valentine and François Prudhomme, being severally sworn, say, that they know the land claimed by Pierre Laffit in his (above) notice; that said land is lying and situate as is therein described; that said land was occupied, inhabited, and cultivated more than thirty years since, by Pierre Laffitte, the grantee, who then had his cattle and family thereon; and that said land has been constantly and uninterruptedly inhabited, and cultivated, and occupied by the claimant since to the present day.

The extent of land here claimed is less than a moiety of the whole conceded. The document relied upon was merely a permission to settle, requiring the approbation of the governor to make the alienation complete. By what act or form this approval was expressed, we know not; it may have been by a general confirmatory act, embracing permission for preceding years, and made at each visit to the jurisdictions under his government; it may have been usual to express it by his paraphe in the margin of the original record; or, it is possible, the superior sanction may have been implied, from his total silence on the subject. In either case, considering the length of time the claimant has been in possession, joined to the fact proven by certain answers preceding this report, that the records of Nacogdoches had been forcibly carried off, and were no longer to be found, we think that proof of the fact of approval ought not now to be required of the claimant. We think this claim would have been considered valid under the Government from which it emanated, and are therefore of opinion it ought to be confirmed, and have accordingly, in the abstract, classed it with claims of the "second class."

And further, on the 25th of February, 1846, the counsel for petitioners offered in evidence the act of Congress, July 6th, 1842, on p. 45, acts of 1842.

Certain claims to land in the district south of the Red river, mentioned in the reports of the register and receiver at Opelousas, confirmed.

Sec. 7. And be it further enacted, That the claims to land within the district south of Red river, being numbers thirty-three, thirty-five, forty-five, fifty-two. seventy-seven, seventy-nine, eighty-seven, ninety-three, one hundred, one hundred and two, one hundred and three, one hundred and eight, one hundred and twenty-two, one hundred and thirty-two, one hundred and forty-two, one hundred and forty-seven, one hundred and forty-eight, one hundred and fifty-one, one hundred

and fifty-two, one hundred and fifty-seven, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-five, and one hundred and sixty-six, of the reports of the register and receiver of the land office at Opelousas, dated the thirtieth May and sixth June, eighteen hundred and forty, made under the provisions of the act of eighteen hundred and thirty-five aforesaid, be and the same are hereby confirmed.

Proviso.

Provided, that the Commissioner of the General Land Office shall cause a further investigation to be made, and further evidence to be taken, in relation to claim number one hundred and sixty-one of said report; and, should it appear that the original claimants actually inhabited and cultivated the lands claimed on and prior to the twenty-second day of February, eighteen hundred and nineteen, then and in that case the same shall be confirmed, by and with the approbation of the Secretary of the Treasury.

Other claims mentioned in said reports confirmed.

Sec. 8. And be it further enacted, That the following claims in the said reports of the register and receiver of the land office at Opelousas be, and the same are hereby, confirmed, as follows, to wit: Number twenty-nine, to the legal representatives of Joseph Maritaurus; number forty-six, to the extent contained in a league square; number forty-nine, for six hundred and forty acres, to the legal representatives of Bernard Lacroix; number fifty-four, to the legal representatives of J. Baptiste Vallery; number seventy-eight, for six hundred and forty acres, to Onezime Guedry, assignee of Nicholas Provost, and six hundred and forty acres to the legal heirs and representatives of Daniel Guedry and Jean Mouton, senior, number ninety-one, for so much as will, with the quantity heretofore confirmed, make the quantity of one league front by the depth of forty arpens; number ninety-nine, for six hundred and forty acres, to embrace the residence and improvements of Hugh Mulhollam, on and previous to the twentieth day of December, eighteen hundred and three; number one hundred and fourteen, to the legal representatives of Andre Dumas; number one hundred and fifty-four, to the legal representatives of Antonio Mora; number one hundred and fifty-eight, to the legal representatives of Louis Frizzini; number one hundred and sixty-seven, to Jacob Wallace, or his legal representatives.

Certain provisions of the two preceding sections not to extend to lands held under certain French or Spanish grants, &c.

Sec. 9. And be it further enacted, That the provisions of the two preceding sections of this act, which confirm donation claims situate in that part of said land district known as the "neutral territory," shall not be regarded as extending to any lands which are held by any per-

son by virtue of any bona fide French or Spanish grant, warrant, or order of survey, made prior to the twentieth of December, eighteen hundred and three, heretofore filed, according to law, with any register or commissioners, or register and receiver of said district.

Proviso.

Provided, that the confirmations made by virtue of the two preceding sections shall only operate as a relinquishment of the right of the United States, and shall not affect the right of third persons, nor preclude a judicial decision between private claimants for the same land; and, on the presentation to the Commissioner of the General Land Office of a plat of survey, duly approved by the surveyor general of Louisiana, the claimant shall be entitled to a patent.

Approved, July 6th, 1842.

And further, on the 25th day of February, 1846, the counsel for petitioners offered in evidence the testimony of H. A. Bullard and Bloodworth, which is in the words and figures following, to wit:

United States district court. District of Louisiana.

Wednesday, February 25, 1846.

Present, Hon. Th. H. McCaleb.

Testimony of James Bludworth, taken in open court.

James Bludworth, being duly sworn in open court, deposes:

That he is about 66 years old; has resided in Louisiana nearly 42 years; now resides three or four miles from Natchitoches, Louisiana, and has resided near that town ever since 1804, at which time witness first came into the country. Witness was a lieutenant in the United States service under Capt. Edw. D. Turner; Capt. Turner acted as civil and military commandant at Natchitoches, passed deeds, &c.

Witness had command of Fort Claiborne (which was at Natchitoches) for three or four months, in consequence of Capt. Turner's being absent during that time. While thus in command, witness exercised all the powers that Capt. Turner exercised when present. In the years 1804, '5, and '6, the Rio Hondo was considered the eastern boundary of Texas; witness never heard of any other boundary either before or since. The Spaniards had a camp at Adayas, six or seven miles west of the Rio Hundo; they patroled in 1805 and '6 from said camp to the Arroyo Hundo; a sergeant's guard was kept at the Arroyo Hundo part of the time; the guard were there in 1805, and continued till Governor Herrera and Cordera came on in the latter part of 1806 with a large force, said to amount to 2 or 3,000 men Witness never saw said force; he never knew civil or military process executed by United States officers west of the Rio Hondo.

In 1805, a Spanish bishop from Mexico, or from the interior, came on with about 60 soldiers. Capt. Turner requested him to stop his military force at Rio Hondo, and not to bring it into the United States;

the force was accordingly left at the Rio Hundo till the bishop returned. Witness always understood that that line was acquiesced in by all parties; does not know the name of the bishop; was acquainted with Davenport, Barr, and Smith; heard often of the La Nana and Ormigas grants; knew not much of them; once copied for Davenport a survey of the La Nana tract; does not know [the] name of the person who surveyed it; thinks it likely it was Rumsdale, as he lived with Murphy. Coleman and Lester were surveying there at that time. Barr, Davenport, and Smith were men of high standing; were in high favor with the Spanish government, and had contracts with the Spanish, permitting them to trade with the Indians. These lands lay northwest of Rio Hondo, in what was called Texas; the Ormigas lay higher up, on the Sabine; it was 15 miles from the centre of La Nana tract to the Sabine; the old field of La Nana lay on the eastern side of La Nana creek. Witness was not on La Nana till 1811; was on Ormigas about ten years ago; there has been stock on Ormigas since 1812; the claims to Ormigas and La Nana were considered good; never heard their genuineness questioned; they were considered in 1804, when witness went there, to belong to Barr, Davenport, Murphy, and Smith. These tracts were occupied by persons who held under Davenport, Barr, and Smith; a man was keeping stock for Davenport on Ormigas when witness visited it; Barr & Co. had a store both at Natchitoches and at Nacogdoches when witness went there, which was on September 4, 1804. Witness understood they had been doing business at both places for many years before that time; Barr & Davenport resided at Nacogdoches, Texas, doing business there; Smith resided at bayou Sara, and Murphy at Natchitoches, La.

The arrangement between General Wilkinson and the Spanish General, made in [the] latter part of 1806, or early in 1807, was, as witness understood, to the effect, that the territory between the Sabine and Rio Hundo should be neutral.

Witness started for Nacogdoches, in Texas, to hunt a negro; he took a letter from Captain Turner to the Spanish Governor, asking leave to pass to Nacogdoches for that purpose; he got to the Spanish advance guard, but was compelled to return, leave to pass being refused him by the Governor; said advance guard was then several miles east of both the La Nana and Ormigas, and on the neutral territory; one David Brown was with witness; Brown lived with Davenport; he was permitted to pass.

Witness was in 1814 and '15 colonel of a regiment of militia, which came here at the time of the siege of New Orleans.

Cross examined by the U. S. District Attorney.

Witness thinks Luther Smith resided at bayou Sara; does not know of his own knowledge; can't describe his personal appearance; he lived at bayou Sara to sell mules sent from Nacogdoches; witness never heard of his having any relations in this part of the country.

The time at which witness started to Nacogdoches for a negro was before the agreement between General Wilkinson and the Spanish General; after the agreement the Spanish troops retired beyond the Sabine. There was a man named De Soto, who lived east of the Sabine, on the bayou Pierre, and was called a justice of the peace, or alcalde, or something of the sort, and acted as such; witness does not know to which side he belonged, whether the American or the Spanish.

After said agreement no one exercised civil jurisdiction over this neutral territory; it was the resort of thieves and robbers; that was in 1811.

The Spanish titles, which witness has seen, were orders of survey and rickets; witness now speaks of lands on the east side of the Rio Hundo; witness never did any surveying out there.

When Governor Salcedo went through Louisiana, on his way to San Antonio, he collected all the titles he could. It was understood that the object of collecting them was to have the titles completed; many gave him there titles, and they were lost.

Re-examination in chief.

What witness states as to Salcedo is from information, not from his own knowledge. Witness supposes the object of Salcedo in collecting said titles, as he did, to have been to make himself popular.

February 26.

Testimony of Henry A. Bullard, taken down by the clerk in open court.

Henry A. Bullard, being duly sworn, deposes, that the document marked Y, on file, and now exhibited to him, is the same spoken of by him in his testimony in May, 1845, in answer to a question of the United States district attorney, as having been seen by him in the hands of the counsel for petitioners; witness has known this paper, and also document marked No. 1 and No. 2, since 1816; document [Y] was kept by Mr. Davenport among his title papers. Pineda, whose name appears in document [Y,] was known to witness; he has been dead many years, but witness knows not how long.

While Davenport had document [Y,] said Davenport claimed to own the land described therein.

Witness knew well Jacinto Mora, the grantee of the Ormigas tract; he was a very respectable man; he was a pure blooded Spaniard, from the island of Madeira. Mora lived near the grant, after having sold it.

Witness further deposes, that he knows the signature of Samuel Davenport to the original act of dissolution of partnership of Barr & Co., (now shown him;) that said signature is genuine; that Murphy was dead before he, witness, came to the country; that he has seen Murphy's signature to documents, which were admitted to be genuine; that he has no doubt that the signature of Murphy to said original act of dissolution of partnership is genuine.

And further, on the 25th day of February, 1846, the following entry was made on the minutes, to wit:

WEDNESDAY, *February* 26, 1846.

Present, the honorable T. H. McCaleb.

YATES & MCINTYRE
vs. } 5.
THE UNITED STATES.

This cause being called, Messrs. Peyton & Baldwin appeared for petitioners, and U. S. district attorney for respondents. The evidence on behalf of petitioners was concluded, and that on behalf of respondents was begun.

And on the 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, being a deed from Joseph Piernas to Victor Potier, which document was marked X, and is in the words and figures following, to wit:

No. 4. Sale to Victor Portia.—(French.)

No. 3. Sale to Vitor Portia.

I, the subscriber, Joseph Piernas, residing actually in the city of New Orleans, in presence of the subscribing witnesses, *I* do solemnly declare that I have this day sold, ceded, and transferred, and alienated, from this day and forever, free of mortgage and any other impeachment whatever, unto Mr. Ferdinand Victor Porter, residing thither, for him, his heirs, successors, and administrators, a tract of land measuring six leagues in length on every front, forming a perfect square or figure, each angle having or being of ninety degrees, situate on the east bank of river Sabine, at the place called las Ormigas, under the control and jurisdiction of Nacogdoches, in the province of Texas, one of those in the kingdom of New Spain, being distant of about twenty-five leagues of Nacogdoches, conformably to the plan thereof, certified and signed by me, that I do deliver to said Potier; which land, whose principal facing lies west, and near the border of river Sabine, the same I have acquired of Jacinto Mora by sale he made to me before the notary public of this city, Mr. Charles Ximenes, the 26th of April, in the year 1796, having been granted to Jacinto Mora by the government of Nacogdoches, on the 14th day of November, 1795, as mentioned in the bill of sale made over to me by Jacinto Mora, and a copy in due form I likewise deliver to said Potier, and do sell the same to him for the sum of eight thousand dollars, to me paid in cash, by which he is discharged, as I have received said amount to my satisfaction, and give him an acquittal; and by the means of which [I] transfer and cede unto him all the rights and actions, real or personal, that I have or may have on said land, to which I renounce in his favor forever, for him to enjoy the same and dispose of it agreeable to his wishes, and as a property belonging to him, and acquired honestly, binding myself to deliver to him a certified copy, in a due form, of the grant of said land, made in favor of Jacinto Mora, so soon as it will be in my power to get it, its original having been deposited and recorded in the records of said Nacogdoches, where I have deposited it myself for a better safety in future; binding myself also to have the bill of sale made of said

land at the office of records, *of said land* in favor of said Potier, immediately after I shall have delivered him the copy of the title of grant, or before, if he requires it; binding myself also for the validity of this sale in a due form.

In witness whereof I do certify and sign these presents, in the city of New Orleans, the 30th day of August, 1804.

(Signed) JOSEPH PIERNAS.

LEANDRO BARASA,
ANTONIO RODRIGUEZ,
Witnesses.

I, the subscriber, do hereby certify, that the foregoing writing is a true translation from the sale of the tract of land situate at Las Ormigas, sold by Piernas to Potier, in New Orleans, the 30th August, 1804.

NATCHITOCHES, *22d March*, 1831.

(Signed) JOSEPH CARRIERE.

And further, on the said 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, being a deed from Victor Potier to Samuel Davenport; which document was marked Y, and is in the words and figures following, to wit;

No. 4. *Conveyance.*

Sale of the Ormigas tract from Victor Portier to S. Davenport.

Victor Portia to Samuel Davenport. (French.)

No. 4.

Before me, Marc Lafitte, notary public, duly commissioned for the city and parish of New Orleans, second senatorial district of the State of Louisiana, residing in said city, and in presence of the subscribing witnesses, to wit:

Being present Mr. Ferdinand Victor Potier, owner, residing in this city, who declares that he does sell, cede, and transfer, as he really does sell and transfer by these presents, from this instant and forever, with the only guarantee, but the property making the object of this present sale, it was acquired by him as it will be mentioned hereafter, and is not grieved of any mortgage in his name, as it is stated in the certificate of the recorders in this city of this date; not being in any respect responsible of any rights of property, nor any determined contents any local situation, and making in no respect the abandon[ment] of the rights that may belong to him agreeable to the titles he produced, and which he is going to make the delivery of to Mr. Samuel Davenport, of Natchitoches, represented here by Mr. Alexander Porter, of Attakapas, now present, who accepts and acquires, for and in the name of said Davenport, with the only warrantees above expressed, a certain tract of land, situate on the borders of the river Sabine, facing the eastward, at the place called Las Ormigas, of the dependency and jurisdiction of Nacogdoches, in the province of Texas, one of those of the king-

dom of New Spain, and distant *of* about twenty-five leagues from said Nacogdoches, with an extension of six leagues on each front, forming a perfect square or figure; which four angles is of ninety degrees. Said lot of ground, as it stands, belongs to the said seller, as holding it and having acquired it of Mr. Joseph Piernas, by deed, under private signature, under date of 30th April, 1804, represented here, and which he makes the delivery of, together with other titles belonging to it.

The present sale and transfer, without warrantee, as before stated, are made and agreed upon, for the price and sum of one thousand dollars; that the said purchaser has represented, as before stated, and paid cash, before the signature of these presents, to said seller, who acknowledges it; he declares it to be such, and gives to this purchaser an acquittal discharge, with a renunciation of the benefit of the law, non numerata pecunia, and of any others relative to the same exception.

The said Mr. Porter declares as being the commissioner of said Mr. Davenport, purchaser from the said seller; has made him the delivery of all and every title belonging, and relative to, the said lot of ground, and renounces, to the name of the same, not to claim any other near the said seller.

And provided, all which is expressed in these presents, the said seller do transfer unto the said purchaser all and every rights, names, reasons, and actions, that he has or may have relative to the said lot of ground, which is the object of the present sale; declaring he substitutes him to all those he may be entitled to practise towards any person who may pretend to have any pretensions to claim and take possession of the same whenever he thinks convenient; acknowledging himself, by his commissioner, to be invested with the right.

Written at New Orleans, in the office, this 27th day of January, 1818, the forty-second year of the independence of the United States of America, in the presence of Jean Louis Chatry and Jaques Jolly, both resident witnesses, who have signed, as also the parties, and the notary public, after reading it over.

The original is signed by Samuel Davenport, A. Porter, Chatry, J'ques Jolly, Mc. Lafitte, notary pub.

I certify this present copy to be true and correct, agreeing with its original, drawn and received in my office, and recorded. In testimony of which I have signed and sealed the same with the seal of my office, the 24th of April, 1818.

(Signed) M. LAFITTE, *Not. Pub.*

I do hereby certify, that the foregoing writing is a true translation from the sale, made in the French language, of a tract of land sold on the 24th April, 1818, to Mr. Porter, purchaser for Samuel Davenport, of Victor Potier.

(Signed) JOSEPH CARRIERE.

Natchitoches, 22d March, 1831.

And further, on the said 26th of February, 1846, the counsel for the petitioners offered in evidence a certain document, being a notarial act

of conveyance from Jacinto Mora to Joseph Piernas; which document was marked Z, and is in the words and figures following, to wit:

No. 2. Venta.

Sale to Piernas by Mora. (Spanish.)

No. 2.

Sale to Piernas.

Be it known that I, Jacinto Mora, first sergeant of the cavalry of militia of the settlement of Nuestra Senora del Pilar of Nacogdoches, in the kingdom of New Spain, residing actually in this city of New Orleans, I declare that I do sell in reality, to the second lieutenant now out of service, Mr. Jose Piernas, of this vicinity, to wit, a tract of land, my property, in the jurisdiction of the said Nacogdoches, situate at about twenty-five leagues distance from said settlement, at the place called Las Ormigas, the principal front of which faces the westward, and extends six leagues north and south on the borders of river Sabine to the eastward; which tract of land is the same granted to me this 14th November of the year just elapsed, 1795, by that government, for the purposes I did propose in my petition of the already mentioned date, and in which I manifested the circumstances of the land, its points, distances, &c., that comprehends it; with all of which, as mentioned in the title of concession, I now make to the said Jose Piernas the mentioned sale, free of mortgage, for the price of two hundred dollars that the said purchaser has paid me in money to my satisfaction; I renounce *to* all my rights, proof, laws of the delivery, and I do give a formal receipt, by the means of which I part from the said property, beneficial possession, real and personal action, I had on the said tract of land to me granted; and I now cede and transfer the same to the purchaser, or to who may be invested with his rights and authority, that, *at* bona fide his property, he may enjoy it or dispose of it as he may think proper, by this public writing that I issue to him as a royal delivery, and that I have acquired said possession in such way that I obligate myself to make it valid, with my properties now present and those to be had, with clauses, and guarantee, &c., submission to justice, renunciation of laws in my favor, &c.; being present with the said Jose Piernas, he accepted, in my name, this writing, receipted as purchased the said tract of land in the manner it is sold.

For which I remain satisfied, and deliver the corresponding receipt, the date of which testimony [is] in the city of New Orleans, 25th April, 1796. I, the notary, do certify that I know the parties that have signed; being witnesses, Antonio Rodriguez, Andrez Fernandez and Marcos Rivera, were present.

JACINTO MORA,
JOSE PIERNAS,

Before me,

CARLOS ZIMENES.

I do certify the above to agree with its original, *and* was compared

before me, and remains in the records of my charge, to which I refer; and, by the solicitude of the interested party, I give these presents the day of its passation.

I do hereby certify, that the foregoing writing is a true translation from the Spanish sale of a tract of land, situate at the place called Las Ormigas, first granted to Jacinto Mora in 1795, and *this* sold it to Joseph Piernas, of New Orleans, on the 25th April, 1796.

(Signed) JOS. CARRIERE.

And further, on the said 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain map or plan, with notes in the Spanish language, which map and notes are marked (Z;) to the admission of which map and notes the following exceptions were made, to wit:

[For map Z see original.] Spanish.

This map and notes are received, subject to all legal exceptions. The genuineness of the signatures of Piernas to the said notes is submitted by the counsel for petitioners and for respondents, to the judgment of the court.

And further, on the said 26th day of February, 1846, the counsel for the petitioners offered in evidence the translation of the notes on the map (Z;) which notes were received, subject to the same exceptions as made to the original notes; which translation is in the words and figures following, to wit:

Translation of document marked (Z.)

A figurative plan of the tract of land situate in the district of country called Las Ormigas, on the eastern bank of the river Sabine, subject to the jurisdiction of the post of our Lady of the Pillar of Nacogdoches, in the Province of Texas, one of those of the kingdom of New Spain; which land [is] distant some twenty-five leagues from the said Nacogdoches, was granted by that government to Jacinto Mora on the 14th of November, of the year 1795, and he sold it to me on the 25th of April, 1796.

The aforesaid tract of land, whose principal front looks towards the west, and touches the said eastern bank of the aforesaid river Sabine, forms a perfect square of six leagues wide, each side, or a figure of four right angles, which contains 272,800 superficial arpens.

The land is high, made up of woodland and small prairies or plains, and is watered by many bayous and small streams, and has in it many fountains or springs. The water of the river Sabine, and those of the bayous, brooks, and springs, are very light, sweet, fresh, and clear.

In the said tract are found excellent and abundant pastures, also much cane for nourishment, in the winter, of horses, mules, and horned cattle, and upon it can be established vacheries of all kinds of live stock.

Upon it is much wood for building, furniture, fencing, timber, and charcoal; and on the banks of the Sabine there is cypress, also stones

for wheat and grist mills, to sharpen tools, and make lime; and in said tract are convenient situations for water-mills and saw-mills.

In this river Sabine are excellent fish, beaver, and otter.

In all the said tract of land, except in some low places adjoining the river Sabine, in which is cypress, can be cultivated wheat, rice, corn, indigo, tobacco, hemp, flax, cotton, sugar cane, and all kinds of vegetables, as also fruit trees of many qualities.

No levees are necessary there to guard against overflows, nor ditches to drain the land proper for cultivation; and in the prairies no other preparation for sowing than ploughing.

From the prairie Ormigas, which has been inhabited, it is 12 leagues to bayou Pierre, from said prairie to the Adair some 12 leagues, and from there to Natchitoches 7; from said prairie to the Spanish lake, some eleven leagues. This lake discharges its waters in the (Rio Colorado) Red river, above the church of Natchitoches.

I certify that the dimensions, and the points of the compass of the above described tract of land, of the size of its fronts, its rectilineal figure, and the section in which it lies, as is shown by this figurative plan, correspond in every particular with the formal title of concession which was acquired by the said Jacinto Mora, and of which he was put in possession by the public syndic procuror, Don Jose de Zepeda, in conformity with the usages of the provinces of New Spain, a few days after the date of his title to the concession, as will be seen by reference thereto. JOS. PIERNAS.

NEW ORLEANS, *February* 11, 1804.

And further, on this 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, which was marked (Y,) and is in the words and figures following, to wit: (Spanish.)

STATE OF LOUISIANA,
Parish of Natchitoches, ss.

Pierre N. Gagnon, of said parish, being duly sworn, doth depose and say, that he is, to best of his knowledge, information, and belief, fifty-nine years of age, is a native born citizen of said parish, and has resided therein all his lifetime, except that from the year 1804 to 1813 he resided in Nacogdoches, in Texas; that while so residing at Nacogdoches, he became acquainted with one Jose Pineda, a Spaniard by birth, and also a citizen of said town of Nacogdoches; that said Pineda was the private secretary of several of the different commandants at said post of Nacogdoches, whilst this deponent so resided there, and keeper of the bureau of public records at said post; that this deponent had frequent business transactions with said Pineda, and often saw him write, and was familiar with his handwriting; that, in the opinion and belief of this deponent, the ancient instrument hereto annexed in the Spanish language, and purporting to be a grant of land from Guardiana, military and civil commandant at the post of Nacogdoches, in Texas, to

Edward Murphy, and transfer[red] by him to William Barr & Co., is in the proper handwriting of said Pineda, and from its whole appearance witness has no doubt but it was made out by said Pineda, at the date of said grant, and delivered to the grantee therein named by the "copias del original," in conformity with the usages at said post, as they existed at the time this deponent resided there—the original itself having been filed in the bureau kept by said Pineda, with other public records, in the opinion and belief of this deponent.

(Signed) PIERRE A. GAGNON.

Subscribed and sworn before me, this 29th day of April, A. D. 1845.

(Signed) C. E. GRENEAUX,
Parish Judge.

And further, on this 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, being a sale from the sheriff of the parish of Sabine to G. W. Thompson, which document was marked (X,) and is in the words and figures following, to wit:

STATE OF LOUISIANA,
Parish of Sabine.

Know all men by these presents, that I, Daniel R. Gandy, sheriff of the parish of Sabine, and collector of the State and parish taxes, by virtue of the law in such cases made and provided, did seize and sell the following described land for the State and parish and school taxes for the year 1843, viz., sixty thousand acres of land, lying in the La Nana tract and the Ormigas tract, in said parish, as will appear by reference to a map of survey by G. S. and W. J. Walmsley; and having advertised the same according to law, and due notice of said seizure having been given to the owners, Henry Yates and Catharine Yates, wife of said Henry Yates, and Archibald McIntyre and Eliza McIntyre, wife of said Archibald McIntyre, by giving notice to Joseph P. Elam, esq., attorney at law, and appointed by the court attorney ad hoc to represent the said Yates and McIntyre, they being absent from said parish; and having complied with all the formalities of law, and on this the 7th day of December, 1844, at the town of Marry, in the parish aforesaid, offered the same for cash to the person who would take the least quantity of said land, and pay the State, school, and parish taxes for the year 1843, and costs amounting to three hundred and ninety-eight dollars and ten cents, having first read in an audible voice the nature and description of the property, when G. W. Thompson became the purchaser of sixty thousand acres of said land for the said sum of three hundred and ninety-eight dollars and ten cents, which amount the receipt whereof is hereby acknowledged:

Now, therefore, I, D. R. Gandy, sheriff, in consideration of the premises, and by virtue of the statutes in such cases made and provided, do hereby sell, convey, transfer, assign, and set over, unto the said G. W. Thompson, his heirs and assigns, all the right, title, and interest, which the said Henry Yates, Catharine Yates, and Archibald McIn-

tyre, and Eliza McIntyre, had in and to the said land as above described, at the time of said seizure. To have and to hold the same unto the said G. W. Thompson, [his] heirs and assigns, forever.

In testimony whereof, I have hereunto set my hand, in presence of the subscribing witnesses, at the town of Marry, this 7th day of December, 1844.

(Signed) D. R. GANDY,
Sheriff and collector.

Witnesses:
S. A. EASON,
W. R. D. SPRIGHT.

Filed December 7th, 1844, and duly recorded in book "A" of Sheriff's sales, folios 17 and 18.

(Signed) S. S. EASON, *Clerk.*

STATE OF LOUISIANA,
Parish of Sabine.

I certify the above and foregoing to be a true copy of the original on file and of record in office, in book "A," folio 199 and 200.

Given under my hand and private seal, having no seal of office, at Mary, this 18th day of February, 1846.

[L. S.] (Signed) W. R. D. SPRIGHT,
Parish judge and ex officio notary public.

And further, on this 26th of February, 1846, the counsel for the petitioners offered in evidence a certain document, which was marked W, which document is a deed from Abigail Smith to Nathan, and is in the words and figures following, to wit:

This indenture, made the sixteenth day of January, in the year of our Lord one thousand eight hundred and seventeen, between Abigail Smith, of Fairfield, county of Herkimer, and State of New York, of the first part, and her son, Nathan Smith, of the same place, of the second part, witnesseth: That the said Abigail Smith, for and in consideration of her love and natural affection she bears to her said son, Nathan Smith, as well as for and in consideration of certain stipulations and agreements entered into by the said Nathan with my beloved daughter, Mary Smith, for her future benefit, hath given, granted, aliened, enfeoffed, and confirmed, and by these presents give, grant, alien, enfeoff, and confirm, unto the said Nathan Smith, his heirs and assigns, forever, all those several tracts or parcels of land situate, lying, and being in the State of Louisiana, viz: One tract or lot of land, containing eight hundred acres, situated at the confluence of the Amite and Comite rivers; which said tract of land was patented to George Weckley for, and as containing, eight hundred arpens; also one other tract or lot of land, containing six hundred acres, situated on St. John's plains, which said tract or lot was patented to Jeremiah Kelsey for, and as containing,

six hundred arpens; also one other tract or lot of land, containing one thousand acres, situated on the Amite river, and adjoining James Blunt's land, and was surveyed by Ira C. Kneeland for, and as containing, one thousand arpens, on the 14th day of September, 1806, for Luther Smith; also one other tract or parcel of land, being the one equal undivided fourth part of a tract of land, four leagues square, commonly known by the name of the La Nana tract: the other three-fourth parts of said tract being owned by Samuel Davenport, and the heirs of Edward Murphy, and William Barr, deceased; and also one other tract or parcel of land, being the one equal undivided fourth part of a tract of land, six leagues square, situated on the Sabine river, and is commonly known by the name of the Ormigas tract, the other three-fourth parts being the property of Samuel Davenport, and the heirs of Edward Murphy, and William Barr, deceased. All the several tracts or parcels of land above described are estimated to contain seventy-six thousand two hundred and eighty acres, be the same more or less, and were late the property of her son, Luther Smith, of bayou Tunica, in the State of Louisiana; together with all and singular the rights, members, and privileges to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, possession, claim, and demand, both in law and equity, of the said party of the first part, of, in, and to the same: To have and to hold the said tracts or parcels of land and premises, with the appurtenances, unto the said Nathan Smith, his heirs and assigns, to his and their only proper use, benefit, and behoof forever. And the said party of the first part doth, for herself, her executors, and administrators, covenant and agree, to and with the party of the second part, his heirs and assigns, that she is the true and lawful owner of the said tracts or parcels of land, with the appurtenances, and is lawfully seized in her own right of a perfect, absolute, and indefeasible estate of inheritance, in fee simple, of and in all the said premises, with the appurtenances, and has herself good right, full power, *and lawful power*, and lawful authority, to grant and convey the same in manner aforesaid; and also that he, the said party of the second part, his heirs and assigns, shall and may forever hereafter have, hold, occupy, and possess the said granted premises, free from hindrance or molestation of any person or persons lawfully claiming the same. And that she, the said party of the first part, and her heirs, the said parcels of land and premises, unto the said party of the second part, his heirs and assigns, against all claims and demands whatsoever, shall and will warrant and forever, by these presents, defend.

In witness whereof the party of the first part has hereunto set her hand and seal, the day and year first above written.

(Signed) ABIGAIL SMITH. [SEAL.]

Sealed and delivered in presence of—

(Signed) SAMUEL NICHOLS,
MOSES MATHER,
WILLIAM MATHER.

STATE OF NEW YORK.

On the seventeenth day of September, in the year of our Lord one thousand eight hundred and seventeen, before me, William D. Ford, esq'r, a commissioner to perform certain duties of a supreme judge, came Abigail Smith, known to me, and acknowledged she executed the within deed. All of which I do hereby certify.

(Signed) W. D. FORD, *Comm., etc.*

UNITED STATES OF AMERICA:

By Silas Wright, governor of the State of New York.

It is hereby certified, that William D. Ford, before whom the annexed instrument was acknowledged, was, on the day of the date of the certificate of acknowledgment thereof, a commissioner to perform certain duties of a judge of the supreme court, residing in Jefferson county, in this State, duly commissioned and sworn, and by law authorized to take the said acknowledgment. That I verily believe the signature "Wm. D. Ford," to said certificate, to be his proper handwriting, and that full faith and credit may and ought to be given to his official acts.

In testimony whereof the great seal of the State is hereunto affixed. Witness my hand, at the city of Albany, the fourteenth day of May, in the year of our Lord one thousand eight hundred and forty-six.

[L. S.]

(Signed) SILAS WRIGHT.

Passed the secretary's office, the 14th day of May, 1846.

(Signed) ARCH'D CAMPBELL,
Dep. Sec. of State.

I, John C. Carr, parish judge of the parish of Natchitoches, in the State of Louisiana, and notary public ex officio in and for the said parish, do hereby certify, that the within deed, as well as the attestation endorsed thereon, are recorded in my notarial office, in the town of Natchitoches, parish aforesaid, in book B, fos. 60 and 61.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, at Natchitoches, this fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty.

[L. S.]

(Signed) JOHN C. CARR,
Parish judge of the parish of Natchitoches, and notary public ex officio.

STATE OF LOUISIANA,
Parish of East Baton Rogue.

PARISH JUDGE'S OFFICE,
February 2d, 1830.

Recorded in book No. 1, fol. 278.

[L. S.] (Signed) CH. TESSIER, *P. judge.*

And further, on this 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, which was marked [V], which document is a deed from Nathan Smith to Mary Smith, and is in the words and figures following, to wit:

This indenture, made the first day of October, in the year of our Lord one thousand eight hundred and twenty-nine, between Nathan Smith, of Fairfield, county of Herkimer, and State of New York, and Ann, his wife, of the first part, and Mary Smith, of the same place, of the second part, witnesseth:

That the said party of the first part, for and in consideration of the sum of three hundred dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath bargained, sold, remised, and quit claimed, and by these presents doth bargain, sell, remise, and quit claim, unto the said party of the second part, in her actual possession now being, and to her heirs and assigns, forever, all the following tracts of land, situate, lying, and being in the State of Louisiana, viz: Four equal undivided fifth parts of one equal undivided fourth part of a tract of four leagues square, commonly known by the name of the La Nana tract; also four equal undivided fifth parts of one equal undivided fourth part of [a] tract of land, six leagues square, adjoining the Sabine river, and commonly called the Ormigas tract, estimated to contain fifty-nine thousand nine hundred and four acres, be the same more or less. The three equal undivided fourth parts of the above named tracts are now, or lately were, the property of the heirs of Samuel Davenport, Edward Murphy, and William Barr, deceased. The lands above described, and hereby intended to be conveyed, was the property of Luther Smith, late of Louisiana, deceased.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to the above bargained premises, with the said hereditaments and appurtenances.

To have and to hold the said above described lands to the said party of the second part, her heirs and assigns, to the sole and only proper use, benefit, and behoof of the said party of the second part, her heirs and assigns, forever.

In witness whereof the said party of the first part hath hereunto set their hands and seals the day and year first above written.

(Signed) NATHAN SMITH, [SEAL.]
ANN SMITH. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) HIRAM NOLTON.
SAMUEL SMITH.

The interlineation over the fourteenth line from the top of the words, "be the same more or less," made before delivery.

(Signed) N. SMITH.

STATE OF NEW YORK,
Herkimer county, ss:

On the first day of October, 1829, before me, Hiram Nolton, first judge of the court of common pleas in and for the county of Herkimer aforesaid, and of the degree of counsellor at law of the supreme court of judicature of the said State, personally appeared Nathan Smith, to me known to be the person described in and who executed the within deed, and he duly acknowledged that he did execute the same for the uses and purposes therein mentioned; I do therefore allow the same to be recorded.

(Signed) HIRAM NOLTON.

UNITED STATES OF AMERICA:

By Silas Wright, governor of the State of New York.

It is hereby certified that Hiram Nolton, before whom the annexed instrument was acknowledged, was, on the day of the date of the certificate of acknowledgment thereof, first judge of the court of common pleas of the county of Herkimer in this State, duly commissioned and sworn, and by law authorized to take the said acknowledgment; that I verily believe the signature "Hiram Nolton" to the said certificate to be his proper handwriting, and that full faith and credit may and ought to be given to his official acts.

In testimony whereof the great seal of the State is hereto affixed. Witness my hand at the city of Albany, the fourteenth day [SEAL.] of May, in the year of our Lord one thousand eight hundred and forty-six.

(Signed) SILAS WRIGHT.

Passed the Secretary's office, the day of 184 .
(Signed) ARCH'D CAMPBELL,
Dep. Sec. of State.

STATE OF NEW YORK,
Herkimer county, ss:

On the ninth day of October, 1829, before me, Hiram Nolton, first judge of the court of common pleas in and for said county aforesaid, and of the degree of counsellor at law of the supreme court of this State, personally came Ann Smith, wife of the within Nathan Smith, to me known to be the person described in and who executed the within deed; and she being examined by me privately and apart from her said husband, confessed that she executed the same freely, voluntarily, and without any fear or compulsion of her said husband. Let the same be recorded.

(Signed) HIRAM NOLTON.

I, John C. Carr, parish judge of the parish of Natchitoches, in the State of Louisiana, and ex officio notary public in and for the said

parish, do certify, that the within deed, and the endorsements thereon, are recorded in my notarial office in book B, folio 59.

In testimony whereof I have hereunto set my hand and affixed my notarial seal at Natchitoches, this fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty.

(Signed) JOHN C. CARR, *Parish judge of the parish of Natchitoches, and notary public ex officio.*

And further, on the 26th day of February, 1846, the counsel for the petitioners offered a certain document marked [U,] which document is a deed from Mary Smith to Samuel Smith, and is in the words and figures following, to wit:

This indenture, made the third day of October, in the year of our Lord one thousand eight hundred and twenty-nine, between Mary Smith, of the town of Fairfield, county of Herkimer, and State of New York, of the first part, and Samuel Smith, of the village and town of Little Falls, county and State aforesaid, of the second part, witnesseth:

That the said party of the first part, for and in consideration of the sum of six hundred dollars, to her in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath bargained, sold, remised, and quit claimed, and by these presents doth bargain, sell, remise, and quit claim, unto the said party of the second part, in him actual possession now being, and to him, his heirs and assigns, forever, all the following tracts of lands, situate, lying, and being in the State of Louisiana, viz: Four equal undivided fifth parts of one equal undivided fourth part of a tract of four leagues square, commonly known by the name of the La Nana tract; also four equal undivided fourth parts of a tract of land, six leagues square, adjoining the Sabine river, commonly called the Ormigas tract, estimated to contain fifty-nine thousand nine hundred and four acres of land, be the same more or less. The three equal undivided fourth parts of the above named tracts are now, or lately were, the property of the heirs of Samuel Davenport, Edward Murphy, and William Barr, deceased. The lands above described, and hereby intended to be conveyed, were the property of Luther Smith, late of Louisiana, deceased.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to the above bargained premises, with the said hereditaments and appurtenances.

To have and to hold the said above described lands to the said party of the second part *to the said party of the second part*, his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said party of the second part, his heirs and assigns, forever.

In witness whereof the said party of the first part hath hereunto set her hand and seal, the day and year first above written.

(Signed) MARY SMITH. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) WILLIAM M. HOWARD,
PETER H. CURCH.

STATE OF NEW YORK, *Herkimer county, ss:*

On the ninth day of October, 1829, before me, Hiram Nolton, first judge of the court of common pleas in and for the said county of Herkimer, and of the degree of counsellor at law of the supreme court of this State, personally came Mary Smith, to me known to be the person described in, and who executed, the within deed, and she duly acknowledged that she did execute the same for the uses therein mentioned. Let the same be recorded.

(Signed) HIRAM NOLTON.

UNITED STATES OF AMERICA:

By Silas Wright, governor of the State of New York.

It is hereby certified, that Hiram Nolton, before whom the annexed instrument was acknowledged, was, on the day of the date of the certificate of acknowledgment thereof, first judge of the court of common pleas of the county of Herkimer, in this State, duly commissioned and sworn, and by law authorized to take the said acknowledgment; that I verily believe the signature, "Hiram Nolton," to the said certificate, to be his proper handwriting, and that full faith and credit may and ought to be given to his official acts.

In testimony whereof the great seal of the State is hereunto affixed. Witness my hand, at the city of Albany, the fourteenth day of May, in the year of our Lord one thousand eight hundred and forty-six.

(Signed) SILAS WRIGHT. [L. S.]

Passed the secretary's office the 14th day of May, 1846.

(Signed) ARCH'D CAMPBELL,
Dep. Sec. of State.

STATE OF LOUISIANA, *parish of Natchitoches, ss:*

I, John C. Carr, parish judge of the parish of Natchitoches, in the State of Louisiana, and notary public ex officio in and for the said parish, do hereby certify, that the within deed, and the endorsement or attestation thereon written, are *record* in my notarial office, in book B, fos. 59 and 60.

Given under my hand and notarial seal, at Natchitoches, this fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty.

(Signed) JOHN C. CARR, [L. S.]
Parish judge of the parish of Natchitoches,
and notary public ex officio.

And further, on this 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, marked (T,) which document is a deed from Nathan Smith to Samuel Smith, and is in the words and figures following, to wit:

This indenture, made the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and thirty, between Nathan Smith, of Fairfield, county of Herkimer, and State of New York, on the first part, and Samuel Smith, of the town of Little Falls, and same county and State, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of three hundred dollars, to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath bargained, sold, remised, and quit claimed, and by these presents doth bargain, sell, remise, and quit claim, unto the said party of the second part, in his actual possession now being, and to his heirs and assigns forever, all that certain piece or parcel of land, containing ten thousand three hundred and sixty-eight acres, situate, lying, and being in the State of Louisiana, being an undivided share of one equal undivided fourth part of a tract of land, six leagues square, which said tract is bounded as follows, (viz:) Beginning at a sweet gum tree, standing on the east bank of the Sabine river, marked or branded M B D, which said tree stands in the road leading from Natchitoches to Nacogdoches, at a place called the Ormigas; running from thence down the river, with the meanders thereof, as far as to make nine miles on a straight line, and cornering on a red oak marked with the letters M B D; thence north 66° east eighteen miles and seventy-four chains, to a red oak marked with the letters M B D; thence north 24° west, crossing two roads, eighteen miles, to a post oak marked M B D; thence south 66° 10 eighteen miles *eighteen miles* and 58 chains, to a holly tree marked with the letters M B D, on the bank of the aforesaid river; thence down the said river, with the meanders thereof, to the place of beginning, containing two hundred and seven thousand three hundred and sixty acres; also another tract or parcel of land, containing four thousand six hundred and eight acres, being an equal undivided share of one equal undivided fourth part of a tract of four leagues square, situated in Louisiana aforesaid, on both sides of the La Nana river, three-fourths of both the above tracts belonging to Samuel Davenport and the heirs of Edward Murphy and William Barr.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, claim, or demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to the above bargained premises, with the said hereditaments and appurtenances.

To have and to hold the said described premises to the said party of the second part, his heirs and assigns, to the sole and only proper use,

benefit, and behoof of the said party of the second part, his heirs and assigns, forever.

In witness whereof the said party of the first part hath set his hand and seal the day and year first above written.

Signed, NATHAN SMITH. [L. S.]

Signed, sealed, and delivered in presence of—
Signed, CORNELIUS CHOTFIELD—

STATE OF NEW YORK,
Herkimer county, ss:

Be it remembered, that on the twenty-ninth day of November, one thousand eight hundred and thirty, before me, Hiram Nolton, a justice of the peace in the town of Fairfield, in the said county of Herkimer, personally appeared Nathan Smith, to me known to be the person described in and who executed the within deed, and he duly acknowledged that he executed the same for the uses and purposes therein mentioned. And there being no interlineations or erasures therein, I do allow the same to be recorded.

(Signed,) HIRAM NOLTON,
Justice Peace.

STATE OF NEW YORK, *Herkimer county.*

State of New York, Herkimer county, Clerk's office, ss:

I, Abijah Beckwith, clerk of the said county, do hereby certify, that Hiram Nolton, whose name is subscribed to the foregoing acknowledgment, was a justice of the peace in and for said county, and duly qualified to act at the time when the said acknowledgment was taken; and further, that I am well acquainted with the handwriting of said justice, and verily believe the signature of "Hiram Nolton," above written, is the proper handwriting of said justice.

In testimony whereof I have hereunto set my hand and affixed the [L. S.] seal of the said county, this thirtieth day of November, A. D. 1830.

(Signed,) ABIJAH BECKWITH, *Clerk*,
Pr. EDWARD C. PINNEY, *Dep. clerk.*

By Enos T. Throop, lieutenant governor of the State of New York, acting as governor of the said State.

It is hereby certified, that Hiram Nolton, before whom the annexed deed was acknowledged, and whose name is subscribed to the acknowledgment, was, the day of the date thereof, a justice of the peace in and for the county of Herkimer, in this State, duly commissioned and sworn, and that full faith and credit may and ought to be given to his official acts; and I verily believe that the signature, "Hiram Nolton,"

to the said acknowledgment, is the proper handwriting of said justice.

In testimony whereof I have caused the great seal of the State to be hereunto affixed. Witness my hand, at the city of Albany, [L. S.] the third day of December, in the year of our Lord one thousand eight hundred and thirty.

(Signed,) E. T. THROOP.

Passed the Secretary's office the 3d day of Dec'r, 1830.

(Signed,) A. CAMPBELL, *Dep. Sec'y.*

STATE OF LOUISIANA, *parish of Natchitoches, ss:*

I do hereby certify, that the within instrument, together with the certificates thereto added and appended, are recorded in my office, in book B, folios 62, 63, and 64.

In testimony whereof I have hereunto set my hand and affixed my official seal, at Natchitoches, this first day of April, in the year [L. S.] of our Lord one thousand eight hundred and thirty-one.

(Signed,) JOHN C. CARR,

Parish judge of the parish of Natchitoches, and notary public ex officio.

And further, on this 26th of February, 1846, the counsel for petitioners offered in evidence a certain document, marked [S], which document is a deed from Abijah Smith to Samuel Smith, and is in the words and figures following, to wit:

This indenture, made the twenty-seventh day of October, in the year of our Lord one thousand eight hundred and eighteen, between Abigail Smith, of the town of Fairfield, county of Herkimer, and State of New York, of the first part, and Samuel Smith, of Herkimer, in said county, of the second part, witnesseth: That the said party of the first part, for and in consideration of the love and affection she bears to her son, the said Samuel Smith, hath given, granted, aliened, and confirmed, and by these presents doth give, grant, alien, and confirm, unto the said party of the second part, and to his heirs and assigns forever, all that certain tract or parcel of land situated, lying, and being in the State of Louisiana, containing four thousand nine hundred and seventy-six acres, and is known and distinguished by being an equal undivided share of one equal undivided fourth part of tract of land commonly called La Nanna tract, which said tract is four leagues square, and three-fourth parts of it are owned by Samuel Davenport, and the heirs of Edward Murphy and William Barr, deceased. Together with all and singular the rights, members, and privileges to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim or demand, both in law and equity, of the said party of the first part, of, in, and to the same; to have and to hold the said four thousand nine hundred and seventy-six acres of land, as above described, with

the appurtenances, unto the said Samuel Smith, his heirs and assigns, to his and their only proper use, benefit, and behoof forever.

In witness whereof the party of the first part hath hereunto set her hand and seal, the day and year first above written.

(Signed) ABIGAIL SMITH. [L. S.]

Sealed and delivered in presence of—

(Signed) NATHAN SMITH.

On the 30th day of October, 1818, before me, Nathan Smith, first judge of Herkimer common pleas, came Abigal Smith, known to me, and acknowledged she executed the within deed. All which I do hereby certify.

(Signed) NATHAN SMITH.

UNITED STATES OF AMERICA:

By Silas Wright, governor of the State of New York.

It is hereby certified, that Nathan Smith, before whom the annexed instrument was acknowledged, was, on the day of the date of the certificate of acknowledgment thereof, first judge of the county of Herkimer, in this State, duly commissioned and sworn, and by law authorized to take the said acknowledgment; that I verily believe the signature, "Nathan Smith," to the said certificate, to be his proper handwriting, and that full faith and credit may and ought to be given to his official acts.

In testimony whereof the great seal of the State is hereunto affixed. Witness my hand, at the city of Albany, the fourteenth day of May, in the year of our Lord one thousand eight hundred and forty-six.

(Signed) SILAS WRIGHT.

Passed the Secretary's office the 14th day of May, 1846.

(Signed) ARCH'D CAMPBELL,
Dep. Sec. of State.

And further, on this 26th day of February, 1846, the counsel for the petitioners offered in evidence a certain document, being a review made by the translator of this court, which is in the words and figures following, to wit:

YATES AND MCINTYRE
vs.
THE UNITED STATES.

I have reviewed the translations of the following documents filed in said case, and beg leave to report:

1. The translation of the petition from Yacinto Mora to the lieutenant governor, although much abridged, is, in substance, correct.

2. The order from B. Fernandez to Don Jose Cayetano de Zepeda syndic procuror, is correct.

3. The document by Don Jose Cayetano de Zepeda, placing Jacinto Mora in possession of the land, is correct.

4. The sale by J. Mora to William Barr & Co., is correct.

5. The petition of E. Murphy to the lieutenant governor is in substance correct.

6. The order on said petition to the syndic procuror is correct.

7. The document by Don José Cayetano de Zepeda giving possession of the land to E. Murphy is correct.

8. The sale by E. Murphy in favor of the commercial firm of E. Murphy, William Barr, S. Davenport, and Smith, is correct.

9. The petitions by Barr and Davenport to the governor in relation to the Ormigas and La Nana grants are correct. The orders thereon are also correct.

I have also compared the Spanish copies of the documents in relation to the Ormigas grant, and found the following variances:

In the original document,	In the copy,
"Oriente,"	"Occidente."
Don Dionisio Vallie, teniente de Cavalleria	Don Jose Maria Guadiana, teniente de Cavalleria.
Santiago Lepin, Luis Rubriquet y Don José Cayetano de Zepeda.	In the copy, Don José de la Bega, Don José Flores, y Don José Ignacio Barbo.
Nacogdoches, 21st July, 1805.	In the copy, Nacogdoches, 14th April, 1810.
Dionosio Vallie.	In the copy, M. Guadiana.
(Signed)	ED. LAUVE, *Translator.*

And further, on the 26th of February, 1846, an agreement was made between the counsel for petitioners and the counsel for respondents, which is in the words and figures following, to wit:

The original act of dissolution of the partnership of Barr & Co. being now exhibited, and the signatures thereto being proved, it is agreed by the United States district attorney that a copy thereof be issued in place of the original.

And on the 25th day of February, 1846, the United States district attorney offered in evidence a certain document entitled "Doc. No. 33," House of Representatives, 27th Cong., 2d sess., Land Claims, Opelousas, Louisiana, marked A, No. 1, to the reception of which document the following agreement was made, to wit:

Doc. No. 33, House of Reps., 27th Cong., 2d sess., Land Claims, Opelousas, Louisiana, marked Doc. A, No. 1. (This document is offered as a *history* of these claims. It is agreed by the United States' district attorney that this document shall be itself withdrawn and sent up, in case of appeal, as a part of the record. The counsel for petitioners, at the same time, protests against the admissibility in evidence of any part of this document.) In this document the United States district attorney particularly refers to—

1st. A letter from the Commissioner of the General Land Office, (pp. 1 to 5,) dated July 9, 1840.

2d. Page 7, abstract, Nos. 178 and 179. (The opinion of the com-

missioner and solicitor of the land office, p. 7, is received, not as evidence, but as the opinion of those officers.)

3d. Pages 17 to 20.

4th. Pages 74 and 75, No. 178, testimony in the cases.

5th. Pages 76 to 79, inclusive.

6th. Alphabetical list of Rio Hondo claims, pp. 80 and 81, Nos. 178 and 179.

7th. Page 93, No. 178.

And on the 26th of February, 1846, the United States' district attorney offered in evidence the report of Mr. Whipple, dated January 13th, 1826, contained in the American State Papers, title Public Lands, vol. 4, page 327, (this report was objected to by the counsel for the petitioners, but received as a history of the case,) which reads as follows:

19*th Congress*, 1*st session*, *No.* 448.

Claims between the Rio Hondo and the Sabine, in Louisiana. Communicated to the House of Representatives, January 13, 1826.

Mr. Whipple, from the Committee on the Public Lands, to whom was referred the report of the register and receiver of the land district south of the Red river, in Louisiana, upon the land claims situated between the Rio Hondo and the Sabine, in what is called the Neutral territory, (see No. 427, page 34,) reported: That on the 3d of March, 1823, an act was passed by which the above named territory was annexed to the land district south of Red river, and the register and receiver of said district were required to receive and record all written evidences of claims to land in said tract of country derived from, and issued by, the Spanish government of Texas prior to the 20th day of December, 1803, according to the regulations as to the granting of lands and the laws and ordinances of said government. The register and receiver of said district were also required to receive and record all evidences of claim founded on occupation, habitation, and cultivation, designating particularly the time and manner in which each tract was occupied, inhabited, and cultivated prior to and on the 22d February, 1819, and the continuance of such habitation and cultivation subsequent to that time, with the extent of improvement upon each tract. They were further required by said act to receive and record such evidence as may be produced touching the performance of conditions required to be performed by any holder of any grant, concession, warrant, or order of survey, or other written evidence of claim, and on which the validity of such claim may have depended under the government from which it emanated. They were also required by said act to receive and record all evidence of fraud in obtaining or issuing the written evidence of such claims, and of their abandonment of forfeiture.

The said act further requires, that the register and receiver shall transmit to the Secretary of the Treasury a complete record of all claims presented to them under the act, and the evidence appertaining to each claim.

They are also required to make an abstract, dividing said claims into four distinct classes, and to transmit it to the Treasury Department.

The first class is required to contain a specification of the nature and extent of complete titles, the time when, by whom, and to whom issued, with the date of any transfer, the name of the person transferring, and to whom transferred, and whether the conditions of such grants have been complied with.

The second class is required to contain all claims founded on written evidence, and not embraced in the first class, when the conditions on which the perfection thereof into complete titles have been complied with according to the laws and ordinances of the Spanish government.

The third class includes all claims founded on habitation and cultivation prior to the 22d February, 1819, where such habitation and cultivation would have entitled the claimants to a title under the government exercising the sovereign power over that country, and which, in the opinion of the register and receiver, ought to be confirmed.

The fourth class is required by said act to consist of such claims as, in the opinion of the register and receiver, ought not to be confirmed.

The said act also contains a proviso, that none of the proceedings directed to be had under it shall be considered as a pledge on the part of Congress to confirm any claim thus reported.

The committee are of opinion that the act above referred to made it the duty of the register and receiver, in the first and second classes specified in said act, to report to Congress the rules and regulations, laws and ordinances, of the government of Texas, under and by virtue of which grants were made, as well as the evidences of title which existed in the form of written evidence on which claims were founded, and likewise the conditions attached to said grants by the Spanish authorities, and whether such conditions had been complied with by the claimants or their representatives.

It appears by the report of the register and receiver of the land district south of Red river, that they repaired to Natchitoches, and held their sittings therein; that no record of land titles, nor other certain written evidence of title, was presented to them for examination; that the law and ordinances under which the Spanish authorities of Texas granted, or pretended to grant lands, were not to be found, and consequently were not examined by them; and that no traces of evidence of the right by which persons settled upon the Neutral territory held their lands, could be subjected to the examination of said officers, except what could be obtained from the recollection of the inhabitants, examined under oath, and that resort was therefore had to the testimony of such witnesses as the said officers of the land office deemed worthy of credit.

Your committee will not here pause to animadvert upon the danger of permitting those directly or indirectly interested in the confirmation of land titles, claimed either by themselves, their representatives, or friends, to testify even on oath, not only to the origin and progress of their respective grants, but also to the rules and regulations by which the Span-

ish authorities of said province were governed in the exercise of the power of granting lands, which power must have been conferred by the laws and edicts of the Spanish monarchy.

It is further manifest, that the usages of those who pretended to grant lands in said Neutral territory, if those who testify before the register and receiver are to be credited, were not in conformity to the rules and regulations adopted in the provinces of Louisiana and Florida, while under the Spanish government, nor did they conform to any regulations which are known to have been established either by the King of Spain or his council in Indies. It however appears from the report of the register and receiver, that, while claims of the first class were under their examination, certain written documents, purporting to be grants emanating from the governor of Nacogdoches, or the commissioner of the same, were presented to them, and upon those papers they have founded their report, recommending the confirmation of the claims in this class.

The register and receiver have not reported whether any, and if any, what, conditions were annexed to these grants, nor have they informed whether, if conditions were annexed, such conditions have been complied with by the grantees. These grants are, therefore, reported as perfect and absolute grants, without any assignable inducement on the part of the Spanish authorities to the making of them, and without any condition subsequent, upon the performance of which their perfection or completion might depend.

The claims of this class are not, therefore. brought within the purview of the act of Congress, nor do they conform to any description of claims known to this Government to have been grants regularly and legally used by the Spanish government.

The committee here beg leave to refer to the able and lucid report of the commissioners of West Florida, on the general nature of Spanish grants.

The first class of cases reported by the register and receiver of the land district south of Red river ought not, therefore, in the opinion of the committee, to be confirmed.

In the examination of the second class, under the act of Congress, the register and receiver have not complied with the provisions of the act. This class, as will be seen above, was, by said law of Congress, to consist of claims founded on written titles, where conditions were imposed, and subsequent proceedings were, therefore, necessary to complete the grants. In some of the cases of claim in this class, as appears by the report of the register and receiver, conditions were annexed to the concessions, such as the final approval of the superior authority, &c.,&c., which the committee will not minutely detail; and yet no proof is reported by said land officers to show that the necessary approval or confirmation was ever obtained, or any of the conditions complied with. The surveys in many, if not in all these cases, have been made by surveyors of the United States; but it does not appear by what authority these surveyors acted, in running the lines of the claims in question. The committee are of opinion that it would be dangerous to the inter-

ests of the Government to permit such loose and imperfect evidence to constitute the foundation of title to any portion of the public domain, and cannot, therefore, recommend the recognition of this class of claims.

The third class of claims are founded on habitation and cultivation prior to the 22d day of February, 1819, where such habitation or cultivation would have entitled the claimants to a title under the government exercising authority over that country, and which, in the opinion of the commissioners, ought to be confirmed.

The register and receiver have reported a very considerable number of claims for confirmation in this class; the habitation and cultivation is sufficiently proved, according to the act of Congress, but no evidence whatever is returned by which the claimants would appear to be entitled to grants, in consequence of such habitation and cultivation, from the Spanish authorities. It is also proper to remark, that the several claimants in this, as well as in the other classes of claims reported, have testified for each other, all having a direct and common interest in procuring confirmation of their titles by the United States. This single fact must very much weaken the force of their testimony; and where it is not supported by other circumstances and evidence, ought to cause it to be received with great caution.

In addition to the foregoing facts, the committee deem it incumbent on them to state, that it appears from documents submitted to them by the Commissioner of the General Land Office, that sixteen claims reported for confirmation by the register and receiver of the land district south of Red river, are upon lands claimed by the Caddow Indians.

These claimants were, by the former Secretary of War, ordered off the Caddow lands, but, it seems, did not obey the order, and have, by some process unknown to your committee, induced the said register and receiver to report their claims for confirmation. The Indian agent for that quarter has, in behalf of these sons of the forest, transmitted a statement of their case for the consideration of the Government.

Under all the circumstances presented, the committee are of opinion that it is not expedient, at present, to confirm any of this class of claims.

The several claimants who have, for some time prior to the possession of the said neutral territory by the United States, inhabited and cultivated lands under the expectation of obtaining final titles from the Spanish authorities, may hereafter be considered as entitled to some consideration from the Government of the United States; and it may become a question how far they shall have extended to them the regards and liberality of the Government, which have frequently been extended to others in the shape of donations. Of this the Government may, however, consider, when no adverse and conflicting Indian claims shall exist. At present, the committee are of opinion that no measure should be taken on the report of the register and receiver of the land district south of the Red river. They therefore ask to be discharged from the further consideration of the subject.

GENERAL LAND OFFICE, *January* 6, 1826.

SIR: The report of the commissioners for adjusting claims to lands in the neutral territory being before the committee on public lands, I take the liberty of enclosing to you the paper marked A, containing information relative to several of the claims recommended in that report for confirmation.

With great respect, your obedient servant,

GEORGE GRAHAM.

The Hon. JOHN SCOTT,
House of Representatives.

A.

DEPARTMENT OF WAR,
Office Indian Affairs, July 9, 1825.

SIR: I enclose, herewith, an extract of a letter from Captain Gray, Indian agent, &c., with a copy of the list of claimants to donations of lands (stated to be under an act of Congress) therein referred to, annexed; and will thank you if you possess any information on the subject to furnish it, to be communicated to the agent for his direction.

I am, very respectfully, sir, your obedient servant,

THOS. L. McKENNEY.

GEORGE GRAHAM, esq.,
Com'r Gen. Land Office.

Extract of a letter from George Gray, Indian agent on Red river, to the Secretary of War, dated May 26, 1825.

"I also enclose you a list of the names of persons that were ordered off the Caddow lands by order of the former Secretary of War, who have since laid in claims for donations on the Caddo lands. I mention this that our Government may be apprised of their improper claims to the Caddow lands.

Memorandum of names of persons claiming donations, under the donation act of Congress, on Caddow lands.

1. Leonard Dyson.
2. Samuel Norris.
3. B. Poira.
4. Henry Stockham.
6. Peter Stockman.
7. Philip Frederick.
8. Moses Robertson.
9. James Farris.
10. Cæsar Wallace.
11. John Armstrong.
12. Old Lay.
13. James Wallace.
14. James Coats.
15. Charles Myers.
16. Manuel Threshall.

Copy of a letter from the Commissioner of the General Land Office to George Gray, Indian agent on Red river, dated August 11, 1825.

SIR: The War Department having furnished me with an extract of

your letter of the 26th May last, in relation to claims to lands, I have to inform you that, on an examination of your list, with the report of the commissioners on the claims to lands between the Rio Hondo and the Sabine rivers, which has not been acted upon by Congress, I find they recommend for confirmation the claims of the following persons, mentioned in your list, viz: Leonard Dyson, Samuel Norris, B. Poira, Henry Stockman, Peter Stockman, Moses Robertson, James Faris, Cæsar Wallace, and John Armstrong. Any evidence you may furnish me with, in relation to the foregoing claims, will be submitted to the committee to whom the report of the commissioners shall be referred at the next session of Congress.

I am, very respectfully, &c.,

GEO. GRAHAM.

GENERAL LAND OFFICE, *January* 12, 1826.

SIR: On the 6th instant, I enclosed to you a copy of my letter to G. Gray, esq., Indian agent on Red river, in relation to some claims to land recommended for confirmation by the register and receiver at Opelousas, in their reports on the neutral country, which were stated to be in the Caddow tract; and I now enclose a copy of his answer received this day.

I am, very respectfully, sir, your obedient servant,

GEO. GRAHAM.

The Hon. JOHN SCOTT,
Of the House of Representatives.

CADDOW PRAIRIE, RED RIVER AGENCY,
November 30, 1825.

SIR: I had the honor of receiving yours, of the 4th of August last, in relation to the lands entered by certain persons residing on Caddow lands. I have no evidence to offer, except that those persons were, in the first instance, permitted to settle on the lands they now wish to hold under the donation act by the Caddow chief some years since; and that the Caddow nation of Indians have had quiet possession of those lands under both the Spanish and French governments, and has never been termed Neutral lands, and are situated immediately on Red river, and are not within sixty miles of any of the waters of the Rio Rundo; and are, beyond any doubt, Caddow lands. Those persons were, all, eighteen months since, ordered off those lands by order of the Secretary of War, and generally removed to the east side of Red river, entirely out of the Indian boundary. Last spring, Red river was uncommonly high, and inundated the east side of Red river, and those intruders were permitted to remove to their former residence. The persons whose names I have forwarded some time since to the War Department are intruders, and are violators of the laws of the United States, with a very few exceptions, and first settled on the lands they now wish to hold for the purpose of trading whisky to the Indians, and I am informed that those people formerly paid the Caddow chief a rent for the lands they now

occupy. Those persons settled on the Caddow lands some time previous to my being appointed Indian agent.

I have the honor to be, respectfully,
Your most obedient, humble servant,
G. GRAY, *Indian Agent.*

To GEO. GRAHAM, ESQ.,
Commissioner of the General Land Office.

And further, on the 26th day of February, 1846, the U. S. district attorney offered in evidence the entry contained in the American State Papers, title Public Lands, vol. 3, commencing at page 72, No. 49.

Note. This entry, as offered by the district attorney as being contained in vol. 3, of the American State Papers, title Public Lands, commencing at page 72, No. 49, is not to be found in the said book under the said reference.

And further, on the 26th day of February, 1846, the U. S. district attorney offered in evidence, from the American State Papers, title Public Lands, vol. 3, page 80, No. 53, a certain entry, which is in the words and figures following, to wit:

No. 53. Joseph Piernas 262,080 acres (supposed to be arpens) in the former province of Texas, east of the river Sabine, claimed under a title to Jacinta Mora, from the governor of Nacogdoches, in the said province of Texas. The notice of the claim is accompanied by a bill of sale passed before Carlos Xemenes, notary public at New Orleans, 25th of April, 1796, of which the following is a translation:

Let it be known, Jacinta Mora sells to Joseph Piernas a tract of land, under the jurisdiction of Nacogdoches, about twenty-five leagues from the village, at a place called the Hormegas, (prismire,) which leads from north to south on the east bank of the river Sabine, which land is the same that was granted to me [on] the 14th November, 1795, by the government of said place, conformable to the limit boundary and other circumstances mentioned in the petition and concession. A plat of survey not appearing to be authentic, nor believed to have been made from actual survey, is also filed, and no other document nor testimony has been offered. See remarks at the end of these reports.

And further, on the 26th day of February, 1846, the U. S. district attorney offered in evidence a certain note, contained in the American State Papers, title Public Lands, vol. 3, page 83, which is in the words and figures following, to wit:

Note.—Several claims entered with the deputy register for the county of Natchitoches, are known to be for lands lying west of the Rio Hondo, and within that part of Louisiana, the United States claim to which has been disputed by the Spanish government The commissioners have not hesitated, on account of the doubt as to which nation the sovereignty of the country may belong, to decide on the claims of persons deriving their rights from acts of Congress granting donations from occupancy, &c., because, however the question of sovereignty may ultimately be decided, no inconvenience, they conceived, could result from their decision; but if the question should be settled in favor of the United States,

there would be this advantage, that the inhabitants would be quieted in their possessions.

The claims on this report, numbered 46, 47, 48, 49, 53, and 63, are also for lands lying west of the Rio Hondo, and the documents of title under which they are held have emanated from Spanish authorities at Nacogdoches, of whose powers and authority the commissioners have had no means of acquiring satisfactory information; and, therefore, decline deciding on those claims. It will be seen that most of them are for very large tracts of land, which, from the tenor of the petitions, were designed principally for vacheré establishments. The commissioners have remarked that, to persons holding offices under the Spanish government, and persons who may have rendered services to the government, it has been customary to make very large concessions of land.

That Samuel Davenport, William Barr, Luther Smith, and Edward Murphy, joint co-partners in commercial houses established at Nacogdoches and Natchitoches, who are the principal claimants of the land thus circumstanced, did for many years enjoy under the Spanish government, in the province of Texas, the exclusive right of trading with the Indians in that quarter, is a matter of public notoriety. Mr. Davenport, one of said co-partners, has submitted to the board a number of original letters from governors, and other persons in authority, in the said Spanish province, dated between the years 1804 and 1812, in which they are sometimes styled "Traders General." In one of those letters, the commandant of Nacogdoches (Sebastien Rodrigus) informs William Barr, that the governor of the province (Antonio Cordera) had ordered him to furnish the said Barr with twenty soldiers, under the command of an intelligent sergeant, with ammunitions and provisions for a voyage of two months, to enable Mr. Barr to explore and sound the mouths of the rivers Carriente, Sabine, and Autoyayne, travelling by land, &c. In another letter to Mr. Barr from said commandant, he acknowledges the receipt of documents of observation made for the purpose of ascertaining the mouth of the river Calcasuit, and hopes he will soon be furnished with the rest of his commission.

In another letter from Simon Eterrara to Samuel Davenport and William Barr, they are requested to furnish the troops of the quarter with provisions, and that they will be thanked for this new proof of being good servants to the King. In another letter to the same persons from Governor Salcedo, it is stated that there is enclosed a memorandum of toys, goods, &c., for the use of the Indians in their jurisdiction. From the foregoing the commissioners are induced to believe that a part of the lands above alluded to may have been conceded as a recompense for the services and loyalty of the above named persons, and as a remuneration of disbursements which it is likely they may have made for the use of the Government. Signed duplicates.

WM. GARRARD,
LEVIN WAILES,
GIDEON FITZ,
By order of the board: LLOYD POSEY, *Clerk.*

And further, on the 26th day of February, 1846, the United States district attorney offered in evidence a certain plat of survey, with the certificate of the commissioners thereto annexed, being document marked "B, No. 1." The certificate of the commissioners thereto annexed is in the words and figures following, to wit:

NORTHWESTERN LAND OFFICE,
28th February, 1839.

To JAMES WHITCOMB, esq.,
Commissioner of the General Land Office, etc.

SIR: In compliance with your request of the 8th ulto., herewith enclosed are copies of a connexion of the lines of the original surveys of the claims of Samuel Davenport and others, reports Nos. 180 and 182, with the lines of the public surveys, as connected by G. S. Walmsley, United States deputy surveyor, at the request of the claimants, the whole of which, as represented on said maps, have been suspended from sale. The entries permitted in this office previous to a knowledge of the locality of those claims are as follows, viz:

In T. 7 N., R. 11 W. The E. ½ of the SE. qr. of sec. 12; the SW. qr. of section 13; and the NW. qr. of sec. 36, same township.

The entries which appear on the township maps, made at Opelousas, are as follows:

In T. 7, R. 11 W. The SW. qr. of sec. 1, the W ½ of the NE. qr., the E. ½ of the NW. qr., and the SE. qr. of sec. 12; the SE. qr. of sec. 26, and the S. ½ of the W. ½ of the NE. qr. of sec. 28, in T. 6, R. 12 W.; the SE. qr. of sec. 14 only.

There are other claims similarly situated, the sale of which has been suspended; when their precise location is known, will be forwarded. Urgent necessity requires my presence at New Orleans for a few days; I hope it will not be considered improper. The throng of business is nearly over.

I have the honor to be, very respectfully, your obedient servant,

PATRICK O. LEE,
Register General Land Office.

I, James Shields, commissioner of the General Land Office, do hereby certify, that the foregoing, in pages 1 and 2, is a true copy of the original letter in this office; and that the foregoing plats, on pages 3 and 4, are true transcripts of the copies which accompany said letter.

In testimony whereof I have hereunto subscribed my name, and caused the seal of the said office to be affixed, at the city of
[L. S.] Washington, this twenty-eighth day of April, 1845.
Signed, JAS. SHIELDS, *Commissioner.*

Plat of survey marked No. 3 and 4, being document B, No. 1.

[For map No. 3, see original.]

(No. 3.)—The above diagram represents the situation of the Orme-

gas tract, and the intersection with the public lines. The boundaries of the above tract were run originally with no variation of the compass, though reported 9° 30′.

Signed, GEORGE S. WALMSLEY,
U. S. deputy surveyor.

January 4th, 1839.

[For map No. 4, see original.]

(No. 4.)—The above plat represents the situation of the La Nanna tract, comprising townships 6 and 7, ranges 11 and 12 west, district south of Red river, La.

Examined December 28th, 1838.

Signed, GEORGE S. WALMSLEY,
U. S. deputy surveyor.

NOTE.—The above was ascertained by finding the centre, being corner to townships 6 and 6, 7 and 7, ranges 11 and 12.

Signed, GEORGE S. WALMSLEY,
Deputy surveyor.

And further, on the 26th day of February, 1846, the following entry was made on the minutes, to wit:

Thursday, February 26, 1846.

Present, the Hon. T. H. McCaleb.

YATES AND MCINTYRE
vs.
THE UNITED STATES.

The trial of this cause was this day resumed.

The offering of evidence on behalf of the respondents was concluded.

And on the 27th day of February, 1846, the following entry was made on the minutes, to wit:

Friday, February 27, 1846.

Present, the Hon. T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES.

The argument of this cause was this day begun, by H. Baldwin, esq., on behalf of the petitioners, and continued until the hour of adjournment.

And on the 28th day of February, 1846, the following entry was made on the minutes, to wit:

Saturday, February 28, 1846.

Present, the Hon. T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES.

The argument of this cause was this day resumed, and continued, on behalf of petitioners, until the hour of adjournment.

And on the 2d day of March, 1846, the following entry was made on the minutes, to wit:

Monday, March 2, 1846.

Present, the Hon. T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES.

This cause was this day argued by the U. S. district attorney, on behalf of the respondents.

And on the 3d day of March, 1846, the following entry was made on the minutes, to wit:

Friday, March 3, 1846.

Present, Hon. T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES.

This cause was argued this day by Bailie Peyton, esq., in reply, on behalf of petitioners.

And on the 4th day of March, 1846, the following entry was made on the minutes, to wit:

Wednesday, March 4, 1846.

Present, the honorable T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES.

The argument of this cause was to-day closed by Balie Peyton, esq., of counsel for the petitioners, and the case was submitted for the consideration of the court.

And on the 6th day of April, 1846, the following entry was made on the minutes, to wit:

Monday, April 6, 1846.

Present, the honorable T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES.

On motion of H. Baldwin, of counsel for the petitioners, the U. S.

attorney being present, and not objecting thereto, it is ordered that petitioners have further time, to wit, until the 1st day of June, 1846, to bring in the mesne conveyances, or proof of the same, and that a commission issue for that purpose, directed to William A. Cook, or any judge or justice of the peace in the State of New York; but that this order is not to interfere so as to suspend the decision of this cause or the taking of an appeal; but that said mesne conveyances, or evidence thereof, be incorporated in the written opinion of this court, if received before said first day of June next.

And on the 13th day of April, 1846, the following judgment was entered on the minutes, to wit:

Monday, April 13, 1846.

Present, the honorable T. H. McCaleb.

YATES & MCINTYRE
vs.
THE UNITED STATES. } 5

This cause having been taken under consideration by the court on the 4th of March, and having been duly considered, it is now ordered, adjudged, and decreed, that the petitioners do recover their respective interest in each of said tracts of land, as shown on the maps thereof made by S. and W. T. Walmsley, and filed with the petition, and being subdivisions No. 2 in each of said maps; and that said petitioners also be entitled to locate so many acres of land as have at any time been sold, or otherwise disposed of, out of said subdivisions by the United States, on any other unappropriated land belonging to the United States within the State of Louisiana.

And it is further ordered, that the petitioners pay the costs of this suit.

And on the 23d day of April, 1846, the following judgment was engrossed on the petition, and signed by the judge, to wit:

YATES and MCINTYRE
vs.
THE UNITED STATES.

This cause having been taken under consideration by the court on the 4th of March, and having been duly considered, it is now ordered, adjudged, and decreed, that the petitioners do recover their respective interest in each of said tracts of lands, as shown on the maps thereof made by S. and W. T. Walmsley, and filed with the petition, and being subdivisions No. 2 on each of said maps; and that said petitioners also be entitled to locate so many acres of land as have at any time been sold, or otherwise disposed of, out of said subdivisions by the United States, on any other unappropriated land belonging to the United States within the State of Louisiana. And it is further ordered, that the petitioners pay the costs of this suit.

Judgment rendered April 13, 1846.

Judgment signed April 23d, 1846.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. judge.

And on the 5th day of November, 1846, the U. S. district attorney presented the following petition of appeal, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES.

To the honorable T. H. McCaleb, judge of the district court of the United States for the district of Louisiana.

The petition of the United States respectfully shows, that there is error in the judgment rendered against them in this honorable court, on the thirteenth day of April last, 1846, in the matter of Yates and McIntyre vs. the United States.

Wherefore they pray that your honor may be pleased to allow an appeal from said judgment to the Supreme Court of the United States.

(Signed) THOMAS P. DURANT, *Att'y U. S.*

Orders of the judge.

Let this petition be filed, and an appeal granted as prayed for.

(Signed) THEO. H. McCALEB, *U. S. judge.*

Let the said appeal be returnable on the 1st Monday of February, 1847.

(Signed) THEO. H. McCALEB, *U. S. judge.*

And on the 13th day of February, 1847, the following motion was entered on the minutes, to wit:

Saturday, February 13th, 1847.

Present, the honorable T. H. McCaleb.

YATES & MCINTYRE
vs. 5.
THE UNITED STATES.

Upon motion of Thomas J. Durant, U. S. district attorney, that in the land case No. 5, and entitled as above, appeal has been granted from the judgment rendered therein to the Supreme Court of the United States at Washington; and that the said appeal has been made returnable on a subsequent day, during the present session of the Supreme Court, and not on the first day of said term, as the practice generally is, to the end that said case of appeal might have its chance of being tried during the present session; and, as no object will be gained by issuing citations to the appellees, directing them to appear at any other time than on the first day of the said term of said court, it is therefore ordered, that the order upon the said petition of appeal in said cause be so amended as to make it returnable on or before the commencement of the next annual session of the Supreme Court.

CLERK'S OFFICE, U. S. DISTRICT COURT,
In and for the district of Louisiana.

I, Needler R. Jennings, clerk of the court aforesaid, do hereby certify four hundred and seventy-three pages and seventeen lines and four plans to contain a true and complete transcript of the record in the case of Yates & McIntyre versus the United States of America, number 5 on the docket of said court, embracing the pleadings and orders of court, as well as all the testimony adduced by the parties on the hearing of the said cause, from the original record now on file in my office.

In testimony whereof I have hereunto signed my name and caused to be affixed *to be affixed* the seal of the said court, at New Orleans, this twenty-third of October, in the year of Lord [SEAL.] one thousand eight hundred and forty-seven, and the seventy-second year of the independence of the United States of America.

N. R. JENNINGS, *Clerk.*

I, Theodore Howard McCaleb, judge of the United States district court for the district of Louisiana, do hereby certify, that Needler R. Jennings, who signed the above certificate, is the clerk of the United States district court for the district of Louisiana, that faith and credit are due and ought to be given to his attestations as such, and that the above certificate is in due form of law.

In testimony whereof I have hereunto signed my name and affixed my seal, this 25th of October, in the year of our Lord one thousand eight hundred and forty-seven, and the seventy-second of the American independence.

THEO. H. McCALEB, [SEAL.]
United States judge.

United States district court for the district of Louisiana, to Henry Yates and Archibald McIntyre, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States of America, to be holden at Washington city, on the first Monday of December next, pursuant to an order of appeal granted on the thirteenth day of February, 1847, by the district judge of the United States for the district of Louisiana, in a certain suit wherein you are plaintiff, and the United States are defendants, to show cause, if any there be, why the decree rendered on the thirteenth day of April, 1846, against the said appellants, and in your favor, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal, at New Orleans, this fourteenth day of August, A. D. 1847.

THEO. H. McCALEB,
United States Judge.

Marshal's return.

Received 10th September, 1847, and on the 20th September, 1847, served a copy of the above citation on Bailey Peyton, esq., attorney for Yates & McIntyre, by leaving the same in the hands of William C. Hamner, esq., at New Orleans, the said Bailey Peyton being absent from the city.

WILLIAM SHEARER,
Deputy U. S. Marshal.

Filed 15th November, 1847.